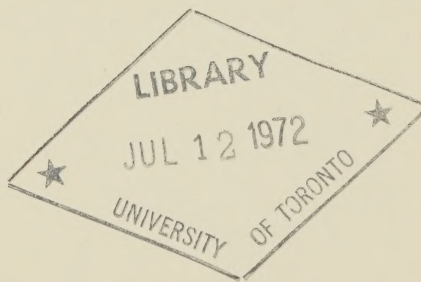


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2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972 11

An Act to amend The Public Vehicles Act

THE HON. G. CARTON
Minister of Transportation and Communications



EXPLANATORY NOTE

The provision for seat-mile fees is repealed.

BILL 211

1972

**An Act to amend
The Public Vehicles Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 12 of *The Public Vehicles Act*, being chapter 392 ^{s. 12, repealed} of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 74, is repealed.

2. This Act comes into force on the day it receives Royal ^{Commence-} Assent._{ment}

3. This Act may be cited as *The Public Vehicles Amendment* ^{Short title} Act, 1972.

BILL 211

An Act to amend
The Public Vehicles Act

1st Reading

June 27th, 1972

2nd Reading

3rd Reading

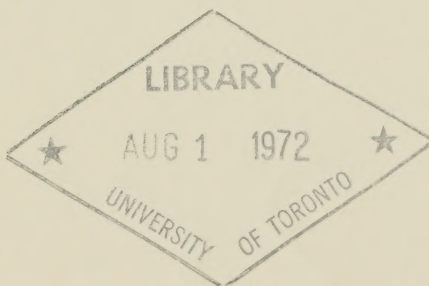
THE HON. G. CARTON
Minister of Transportation
and Communications

(Government Bill)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Public Vehicles Act

THE HON. G. CARTON
Minister of Transportation and Communications



BILL 211

1972

**An Act to amend
The Public Vehicles Act**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 12 of *The Public Vehicles Act*, being chapter 392<sup>s. 12,
repealed</sup> of the Revised Statutes of Ontario, 1970, as re-enacted by the Statutes of Ontario, 1971, chapter 50, section 74, is repealed.

2. This Act comes into force on the day it receives Royal<sup>Commence-
ment</sup> Assent.

3. This Act may be cited as *The Public Vehicles Amendment*^{Short title} Act, 1972.

An Act to amend
The Public Vehicles Act

1st Reading

June 27th, 1972

2nd Reading

June 29th, 1972

3rd Reading

June 29th, 1972

THE HON. G. CARTON
Minister of Transportation
and Communications

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BILL 212

Government Bill

Government
Publications

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972 *TH*

An Act to amend The Highway Traffic Act

THE HON. G. CARTON
Minister of Transportation and Communications



TORONTO
PRINTED AND PUBLISHED BY THE QUEEN'S PRINTER AND PUBLISHER

EXPLANATORY NOTE

The section provides a procedure for suspending the licences of persons who are in default of payment of fines. A justice who is satisfied that a person is in default of payment may direct the Registrar to suspend the person's licence until payment of the amount in default is made.

BILL 212

1972

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

26a.—(1) In this section, “justice” means a justice of the peace or a provincial judge. Interpre-
tation

- (2) Where a justice is satisfied that a person is in default of payment of all or any part of a fine imposed upon conviction for an offence against *The Highway Traffic Act*, *The Public Vehicles Act*, *The Public Commercial Vehicles Act* or the regulations made under any of them, he may, in addition to any other order which may have been made under *The Summary Convictions Act*, issue an order to the Registrar directing the suspension of the driver’s licence of such person and the Registrar shall suspend the licence. Suspension
for default
in payment
of fine
R.S.O. 1970,
cc. 202, 392,
375, 450
- (3) A driver’s licence that is suspended under this section shall remain suspended and shall not be renewed, nor shall a new licence be issued to the person whose licence has been suspended, until payment in full is made of the amount in respect of which the order directing suspension was issued and the licence is reinstated pursuant to subsection 4. Suspension
- (4) Upon payment in full of the amount in respect of which an order directing suspension was issued, a justice of the court from which the order was issued shall issue an order to the Registrar directing the reinstatement of the driver’s licence and the Registrar shall reinstate the licence. Removal of
suspension

Notice to
past
defaulters

- (5) Where a person was in default of payment of all or part of a fine referred to in subsection 2 immediately before *The Highway Traffic Amendment Act, 1972* came into force, no order shall be made under subsection 2 until fifteen days after such person has been notified of the intention to make such order.

Regulations

- (6) The Lieutenant Governor in Council may make regulations prescribing forms and procedures and respecting any matter considered necessary or advisable to carry out effectively the intent and purpose of this section.

Commence-
ment

2. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

3. This Act may be cited as *The Highway Traffic Amendment Act, 1972*.

An Act to amend
The Highway Traffic Act

1st Reading
June 27th, 1972

2nd Reading

3rd Reading

THE HON. G. CARTON
Minister of Transportation
and Communications

(Government Bill)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Highway Traffic Act

THE HON. G. CARTON
Minister of Transportation and Communications



TORONTO

PRINTED AND PUBLISHED BY THE QUEEN'S PRINTER AND PUBLISHER

An Act to amend The Highway Traffic Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. *The Highway Traffic Act*, being chapter 202 of the Revised Statutes of Ontario, 1970, is amended by adding thereto the following section:

26a.—(1) In this section, “justice” means a justice of the peace or a provincial judge. Interpretation

(2) Where a justice is satisfied that a person is in default of payment of all or any part of a fine imposed upon conviction for an offence against *The Highway Traffic Act*, *The Public Vehicles Act*, *The Public Commercial Vehicles Act* or the regulations made under any of them, he may, in addition to any other order which may have been made under *The Summary Convictions Act*, issue an order to the Registrar directing the suspension of the driver’s licence of such person and the Registrar shall suspend the licence. Suspension for default in payment of fine
R.S.O. 1970, cc. 202, 392, 375, 450

(3) A driver’s licence that is suspended under this section shall remain suspended and shall not be renewed, nor shall a new licence be issued to the person whose licence has been suspended, until payment in full is made of the amount in respect of which the order directing suspension was issued and the licence is reinstated pursuant to subsection 4. Suspension

(4) Upon payment in full of the amount in respect of which an order directing suspension was issued, a justice of the court from which the order was issued shall issue an order to the Registrar directing the reinstatement of the driver’s licence and the Registrar shall reinstate the licence. Removal of suspension

Notice to
past
defaulters

- (5) Where a person was in default of payment of all or part of a fine referred to in subsection 2 immediately before *The Highway Traffic Amendment Act, 1972* came into force, no order shall be made under subsection 2 until fifteen days after such person has been notified of the intention to make such order.

Regulations

- (6) The Lieutenant Governor in Council may make regulations prescribing forms and procedures and respecting any matter considered necessary or advisable to carry out effectively the intent and purpose of this section.

Commence-
ment

- 2.** This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

Short title

- 3.** This Act may be cited as *The Highway Traffic Amendment Act, 1972*.

An Act to amend
The Highway Traffic Act

1st Reading
June 27th, 1972

2nd Reading
June 29th, 1972

3rd Reading
June 29th, 1972

THE HON. G. CARTON
Minister of Transportation
and Communications

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Government
Publication

BILL 213

Government Bill

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972 11

An Act to amend The Housing Development Act

THE HON. D. A. BALES
Attorney General



EXPLANATORY NOTE

The amendment authorizes the Minister to acquire land for the purposes of a building development as defined in the Act and to dispose of any of such land on such terms and conditions as he may determine.

BILL 213

1972

An Act to amend The Housing Development Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 7 of *The Housing Development Act*, being chapter 213 of the Revised Statutes of Ontario, 1970, is amended by adding at the end thereof "or of a building development and may sell, lease or otherwise dispose of any of such land on such terms and conditions as the Minister may determine".^{s. 7 (1), amended}

2. This Act comes into force on the day it receives Royal Assent.<sup>Commence-
ment</sup>

3. This Act may be cited as *The Housing Development Amendment Act, 1972*.^{Short title}

An Act to amend
The Housing Development Act

1st Reading

June 27th, 1972

2nd Reading

3rd Reading

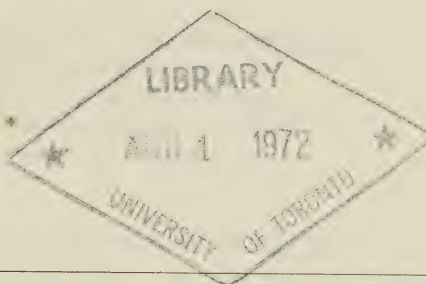
THE HON. D. A. BALES
Attorney General

(Government Bill)

BILL 213

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

An Act to amend The Housing Development Act



THE HON. D. A. BALES
Attorney General

TORONTO

PRINTED AND PUBLISHED BY THE QUEEN'S PRINTER AND PUBLISHER

BILL 213

1972

An Act to amend The Housing Development Act

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Subsection 1 of section 7 of *The Housing Development Act*, being chapter 213 of the Revised Statutes of Ontario, 1970, is amended by adding at the end thereof “or of a building development and may sell, lease or otherwise dispose of any of such land on such terms and conditions as the Minister may determine”.

2. This Act comes into force on the day it receives Royal Assent.

3. This Act may be cited as *The Housing Development Amendment Act, 1972*.

An Act to amend
The Housing Development Act

1st Reading

June 27th, 1972

2nd Reading

June 29th, 1972

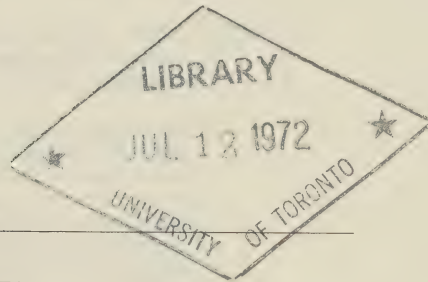
3rd Reading

June 29th, 1972

THE HON. D. A. BALES
Attorney General

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972 (II)

**An Act respecting Conflict of Interest
of Members of Municipal Councils
and Local Boards**



THE HON. D. A. BALES
Attorney General

EXPLANATORY NOTES

The Bill embodies a new code to govern the entire field relating to conflicts of interest as they may arise in relation to members of municipal councils and local boards. The principal provisions are as follows:

1. Full disclosure and abstention from discussion and voting, rather than automatic disqualification, will be the basis for dealing with conflicts of interest.
2. The failure of a member of council or of a local board to disclose a pecuniary interest, whether direct or indirect, in any matter that comes before a meeting of the council or local board, including a committee or other meeting, will render the member liable, on the application of a ratepayer to a county or district court judge, to having his seat declared vacant and being disqualified from being a member of any council or local board for a period of up to seven years.
3. "Indirect pecuniary interest" is defined in the Bill.
4. An appeal is provided from the decision of the county or district court judge to the Divisional Court, whose decision is final.
5. Certain nominal conflict situations are excepted from the disclosure requirement; these generally are of the type where the interest of the member arises out of his relationship to the municipality as a member of the general public.

Complementary to this Bill will be a re-enactment of section 36 of *The Municipal Act* dealing with automatic disqualification. From it will be deleted references to persons having contracts with, or claims against, the municipality. Such persons will be eligible to sit on municipal councils, but will be subject to the disclosure provisions embodied in this Bill.

**An Act respecting Conflict of Interest
of Members of Municipal Councils
and Local Boards**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpreta-
tion

- (a) “council” means the council of a municipality;
- (b) “local board” means a local board as defined in *The Municipal Affairs Act*;
- (c) “municipality” means the corporation of a county, city, town, village, township or improvement district or of a district, metropolitan or regional municipality and a board, commission or other local authority exercising any power in respect of municipal affairs or purposes, including school purposes, in an unorganized township or unsurveyed territory.
- (d) “ratepayer” means,
 - (i) in respect of a municipality or a local board thereof, other than a school board, a person entitled to vote at a municipal election in the municipality, and
 - (ii) in respect of a public, separate or secondary school board, a person entitled to vote at the election of members of such board;
- (e) “senior officer” means the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a corporation or any other person who performs functions for the corporation similar to those normally performed by a person occupying any such office.

Idem

(2) For the purposes of clause *a* of subsection 3, a member of a council or of a local board shall be deemed to have a controlling interest in a corporation if he beneficially owns, directly or indirectly, or exercises control or direction over, equity shares of the corporation carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding.

Idem

(3) For the purposes of this Act, a member of a council or of a local board has an indirect pecuniary interest in a contract or proposed contract with the municipality or local board, as the case may be,

(a) if he or his nominee is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public or has a controlling interest in, or is a director or senior officer of, a corporation that offers its securities to the public or is a member of a body,

(i) with which the contract is made or is proposed to be made, or

(ii) that has an interest in a contract or proposed contract that is reasonably likely to be affected by a decision of the council or local board; or

(b) if he is a partner of a person, or is in the employment of a person or a body,

(i) with whom the contract is made or is proposed to be made, or

(ii) that has an interest in a contract or proposed contract that is reasonably likely to be affected by a decision of the council or local board.

Duty to
disclose
interest in
contracts
etc.

2.—(1) Where a member of a council or of a local board, either on his own behalf or while acting for another, has any pecuniary interest, direct or indirect,

(a) in any contract or proposed contract with the municipality or local board, as the case may be;

(b) in any contract or proposed contract that is reasonably likely to be affected by a decision of the council or local board; or

(c) in any other matter in which the council or local board is concerned,

and is present at a meeting, including a committee or other meeting, of the council or local board at which the contract, proposed contract or other matter is the subject of consideration, he shall, as soon as practicable after the commencement of the meeting, disclose his interest and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract, proposed contract or other matter, or attempt in any way to influence the voting on any such question.

(2) Where the interest of a member of a council or of a local board has not been disclosed as required by subsection 1 by reason of his absence from the meeting referred to therein or by reason of such interest having been acquired after such meeting, he shall disclose his interest and otherwise comply with subsection 1 at the first meeting of the council or local board, as the case may be, attended by him after the meeting referred to in subsection 1 or after acquiring such interest. ^{Idem}

(4) The interest of any spouse, son, daughter or any other relative of a member of a council or local board who has the same home as such member, shall if known to the member, be deemed for the purposes of this section to be also an interest of the member. ^{Idem, associates}

(5) Subsections 1 and 2 do not apply to an interest in a contract, proposed contract or other matter that a member may have, ^{Where subss. 1, 2, do not apply}

- (a) as a ratepayer, or as a user of any public utility service supplied to him by the municipality or local board in like manner and subject to the like conditions as are applicable in the case of persons who are not members of the council or local board;
- (b) by reason of an interest in any matter relating to the terms on which the right to participate in any service, including the supply of goods, is offered to the public;
- (c) by reason of his purchasing or owning a debenture of the municipality, or local board; or
- (d) by reason of his having made a deposit with the municipality or local board, the whole or part of which is or may be returnable to him in like manner as such a deposit is or may be returnable to all other ratepayers.

(5) Every disclosure of interest under subsection 1 or 2 shall be recorded in the minutes of the meeting by the clerk of the municipality or secretary of the local board, as the case may be. ^{Disclosure of interest to be recorded}

Proceedings
not invali-
dated, but
voidable

(6) The failure of any person to comply with subsection 1 or 2 does not of itself invalidate any contract, or the proceedings in respect of any proposed contract, or other matter mentioned in subsection 1 or 2, but the contract or the proceedings in respect of any proposed contract or other matter are voidable at the instance of the municipality or of the local board, as the case may be, before the expiration of two years from the date of the passing of the by-law or resolution authorizing the contract or proposed contract or other matter.

Interpreta-
tion

3.—(1) In this section and in sections 4 and 5, “judge” means a judge of the county or district court of the county or district in which the municipality is situate or in which the local board has jurisdiction.

Who may
try alleged
contraven-
tion of subs.
1 or 2 of s. 2

(2) The question of whether or not a member of council or of a local board has contravened subsection 1 or 2 of section 2 may be tried and determined by a judge.

Originating
notice

4.—(1) A ratepayer may, within six weeks after the fact comes to his knowledge that a member of a council or of a local board may have contravened subsection 1 or 2 of section 2, apply to the judge by way of originating notice in the manner prescribed by the rules of court for a determination of the question of whether or not a member of a council or of a local board has contravened subsection 1 or 2 of section 2.

Contents of
notice of
motion

(2) The ratepayer in his notice of motion shall state the grounds for finding a contravention by the member of council or of a local board of subsection 1 or 2 of section 2.

Judge may
declare seat
vacant and
disqualify
member

5. Where the judge determines that a member of council or of a local board has contravened subsection 1 or 2 of section 2, he shall declare the seat of the member vacant and may disqualify him from being a member of any council and of any local board during a period thereafter of not more than seven years.

Appeal to
Divisional
Court

6.—(1) An appeal lies from any order made under section 5 to the Divisional Court in accordance with the rules of court.

Judgment

(2) The Divisional Court may give any judgment that ought to have been pronounced and its decision is final.

Application
of Act,
to filling
vacancies

7.—(1) Section 2 does not apply to the election or appointment of a member of a council or local board to fill a vacancy, office or position in the council or local board when the council or local board is empowered or required by any general or special Act to fill such vacancy, office or position.

(2) Nothing in this Act prevents a member of the council or of a local board from taking part in the consideration or discussion of, or from voting on any question in respect of an allowance for attendance at meetings, or any other allowance, honorarium, remuneration, salary or benefit to which he may be entitled by reason of being a member of the council or local board or otherwise by law, as the case may be.

8. In the event of conflict between any provision of this Act and any provision of any general or special Act, the provision of this Act prevails.

9. This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.

10. This Act may be cited as *The Municipal Conflict of Interest Act, 1972*.

An Act respecting Conflict of
Interest of Members of Municipal
Councils and Local Boards

1st Reading

June 28th, 1972

2nd Reading

3rd Reading

THE HON. D. A. BALES
Attorney General

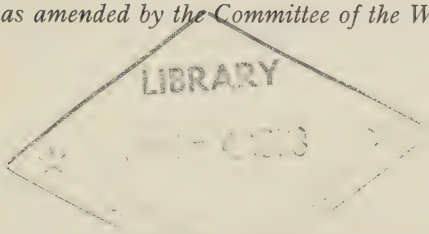
(Government Bill)

2ND SESSION, 29TH LEGISLATURE, ONTARIO, Leg
21 ELIZABETH II, 1972

**An Act respecting Conflict of Interest
of Members of Municipal Councils
and Local Boards**

THE HON. D. A. BALES
Attorney General

(Reprinted as amended by the Committee of the Whole House)



TORONTO

PRINTED AND PUBLISHED BY THE QUEEN'S PRINTER AND PUBLISHER

EXPLANATORY NOTES

The Bill embodies a new code to govern the entire field relating to conflicts of interest as they may arise in relation to members of municipal councils and local boards. The principal provisions are as follows:

1. Full disclosure and abstention from discussion and voting, rather than automatic disqualification, will be the basis for dealing with conflicts of interest.
2. The failure of a member of council or of a local board to disclose a pecuniary interest, whether direct or indirect, in any matter that comes before a meeting of the council or local board, including a committee or other meeting, will render the member liable, on the application of a ratepayer to a county or district court judge, to having his seat declared vacant and being disqualified from being a member of any council or local board for a period of up to seven years.
3. "Indirect pecuniary interest" is defined in the Bill.
4. An appeal is provided from the decision of the county or district court judge to the Divisional Court, whose decision is final.
5. Certain nominal conflict situations are excepted from the disclosure requirement; these generally are of the type where the interest of the member arises out of his relationship to the municipality as a member of the general public.

Complementary to this Bill will be a re-enactment of section 36 of *The Municipal Act* dealing with automatic disqualification. From it will be deleted references to persons having contracts with, or claims against, the municipality. Such persons will be eligible to sit on municipal councils, but will be subject to the disclosure provisions embodied in this Bill.

**An Act respecting Conflict of Interest
of Members of Municipal Councils
and Local Boards**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpreta-
tion

- (a) “council” means the council of a municipality;
- (b) “local board” means a local board as defined in *The Municipal Affairs Act*;
- (c) “municipality” means the corporation of a county, city, town, village, township or improvement district or of a district, metropolitan or regional municipality and a board, commission or other local authority exercising any power in respect of municipal affairs or purposes, including school purposes, in an unorganized township or unsurveyed territory.
- (d) “ratepayer” means,
 - (i) in respect of a municipality or a local board thereof, other than a school board, a person entitled to vote at a municipal election in the municipality, and
 - (ii) in respect of a public, separate or secondary school board, a person entitled to vote at the election of members of such board;
- (e) “senior officer” means the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a corporation or any other person who performs functions for the corporation similar to those normally performed by a person occupying any such office.

R.S.O. 1970,
c. 118

Idem

(2) For the purposes of clause *a* of subsection 3, a member of a council or of a local board shall be deemed to have a controlling interest in a corporation if he beneficially owns, directly or indirectly, or exercises control or direction over, equity shares of the corporation carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding.

Idem

(3) For the purposes of this Act, a member of a council or of a local board has an indirect pecuniary interest in a contract or proposed contract with the municipality or local board or in any contract or proposed contract that is reasonably likely to be affected by a decision of the council or local board or in any other matter in which the council or local board is concerned, as the case may be,

(a) if he or his nominee is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public or has a controlling interest in, or is a director or senior officer of, a corporation that offers its securities to the public or is a member of a body,

(i) with which the contract is made or is proposed to be made, or

(ii) that has an interest in a contract or proposed contract that is reasonably likely to be affected by a decision of the council or local board, or

(iii) that has an interest in any other matter in which the council or local board is concerned; or

(b) if he is a partner of a person, or is in the employment of a person or a body,

(i) with whom the contract is made or is proposed to be made, or

(ii) that has an interest in a contract or proposed contract that is reasonably likely to be affected by a decision of the council or local board, or

(iii) that has an interest in any other matter in which the council or local board is concerned.

Idem

(4) A member of a council or of a local board does not have an indirect pecuniary interest by reason only of his being a director or senior officer of a corporation incorporated

for the purpose of carrying on business for and on behalf of the municipality or local board or by reason of his being a member of a board, commission or other body as an appointee of the council or local board.

(5) Where the number of members of a council or of a local board who have an indirect pecuniary interest by reason of the application of clause *b* of subsection 3 is such that at any meeting the remaining members are not of sufficient number to constitute a quorum, then, notwithstanding any other general or special Act, the remaining number of members shall be deemed to constitute a quorum, provided such number is not less than two. ^{Quorum deemed constituted}

2.—(1) Where a member of a council or of a local board, either on his own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, ^{Duty to disclose interest in contracts, etc.}

- (a) in any contract or proposed contract with the municipality or local board, as the case may be;
- (b) in any contract or proposed contract that is reasonably likely to be affected by a decision of the council or local board; or
- (c) in any other matter in which the council or local board is concerned,

and is present at a meeting, including a committee or other meeting, of the council or local board at which the contract, proposed contract or other matter is the subject of consideration, he shall, as soon as practicable after the commencement of the meeting, disclose his interest and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract, proposed contract or other matter, or attempt in any way to influence the voting on any such question.

(2) Where the interest of a member of a council or of a local board has not been disclosed as required by subsection 1 by reason of his absence from the meeting referred to therein or by reason of such interest having been acquired after such meeting, he shall disclose his interest and otherwise comply with subsection 1 at the first meeting of the council or local board, as the case may be, attended by him after the meeting referred to in subsection 1 or after acquiring such interest. ^{Idem}

(3) The interest of any spouse, son, daughter or any other relative of a member of a council or local board who has the same home as such member, shall if known to the member, be deemed for the purposes of this section to be also an interest of the member. ^{Idem, associates}

Where
subss. 1, 2,
do not
apply

(4) Subsections 1 and 2 do not apply to an interest in a contract, proposed contract or other matter that a member may have,

- (a) as a ratepayer, or as a user of any public utility service supplied to him by the municipality or local board in like manner and subject to the like conditions as are applicable in the case of persons who are not members of the council or local board;
- (b) by reason of his being entitled to receive on terms common to other persons any service or commodity or any subsidy, loan or other such benefit offered by the municipality or local board;
- (c) by reason of his purchasing or owning a debenture of the municipality or local board; or
- (d) by reason of his having made a deposit with the municipality or local board, the whole or part of which is or may be returnable to him in like manner as such a deposit is or may be returnable to all other ratepayers.

Disclosure
of interest
to be
recorded

(5) Every disclosure of interest under subsection 1 or 2 shall be recorded in the minutes of the meeting by the clerk of the municipality or secretary of the local board, as the case may be.

Proceedings
not invali-
dated, but
voidable

(6) The failure of any person to comply with subsection 1 or 2 does not of itself invalidate any contract, or the proceedings in respect of any proposed contract, or other matter mentioned in subsection 1 or 2, but the contract or the proceedings in respect of any proposed contract or other matter are voidable at the instance of the municipality or of the local board, as the case may be, before the expiration of two years from the date of the passing of the by-law or resolution authorizing the contract or proposed contract or other matter.

Interpreta-
tion

3.—(1) In this section and in sections 4 and 5, “judge” means a judge of the county or district court of the county or district in which the municipality is situate or in which the local board has jurisdiction.

Who may
try alleged
contraven-
tion of subs.
1 or 2 of s. 2

(2) The question of whether or not a member of council or of a local board has contravened subsection 1 or 2 of section 2 may be tried and determined by a judge.

Originating
notice

4.—(1) Subject to subsection 3, a ratepayer may, within six weeks after the fact comes to his knowledge that a member of a council or of a local board may have contravened subsection 1 or 2 of section 2, apply to the judge by way of

originating notice in the manner prescribed by the rules of court for a determination of the question of whether or not a member of a council or of a local board has contravened subsection 1 or 2 of section 2.

(2) The ratepayer in his notice of motion shall state the grounds for finding a contravention by the member of council or of a local board of subsection 1 or 2 of section 2. Contents of notice of motion

(3) No application shall be brought under subsection 1 after the expiration of the term of office of the member of council or local board during which the contravention is alleged to have occurred. Time for bringing application limited

5.—(1) Where the judge determines that a member of council or of a local board has contravened subsection 1 or 2 of section 2, he shall, subject to subsection 2 of this section, declare the seat of the member vacant and may disqualify him from being a member of any council and of any local board during a period thereafter of not more than seven years. Judge may declare seat vacant and disqualify member

(2) Where the judge determines that a member of council or of a local board has contravened subsection 1 or 2 of section 2, if the judge finds that the contravention was committed through inadvertance or by reason of a *bona fide* error in judgment, the member is not subject to having his seat declared vacant or to being disqualified as a member, as provided by subsection 1. Saving

6.—(1) An appeal lies from any order made under section 5 to the Divisional Court in accordance with the rules of court. Appeal to Divisional Court

(2) The Divisional Court may give any judgment that ought to have been pronounced and its decision is final. Judgment

7.—(1) Section 2 does not apply to the election or appointment of a member of a council or local board to fill a vacancy, office or position in the council or local board when the council or local board is empowered or required by any general or special Act to fill such vacancy, office or position. Application of Act, to filling vacancies

(2) Nothing in this Act prevents a member of the council or of a local board from taking part in the consideration or discussion of, or from voting on any question in respect of an allowance for attendance at meetings, or any other allowance, honorarium, remuneration, salary or benefit to which he may be entitled by reason of being a member of the council or local board or otherwise by law, as the case may be. to consideration of benefits to which all members entitled

- Conflict** **8.** In the event of conflict between any provision of this Act and any provision of any general or special Act, the provision of this Act prevails.
- Commence-
ment** **9.** This Act comes into force on a day to be named by the Lieutenant Governor by his proclamation.
- Short title** **10.** This Act may be cited as *The Municipal Conflict of Interest Act, 1972*.

An Act respecting Conflict of
Interest of Members of Municipal
Councils and Local Boards

1st Reading

June 28th, 1972

2nd Reading

December 14th, 1972

3rd Reading

THE HON. D. A. BALES
Attorney General

*(Reprinted as amended by the
Committee of the Whole House)*

BILL 214

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972 III

**An Act respecting Conflict of Interest
of Members of Municipal Councils
and Local Boards**

THE HON. D. A. BALES
Attorney General



TORONTO

PRINTED AND PUBLISHED BY THE QUEEN'S PRINTER AND PUBLISHER

**An Act respecting Conflict of Interest
of Members of Municipal Councils
and Local Boards**

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1.—(1) In this Act,

Interpreta-
tion

(a) “council” means the council of a municipality;

(b) “local board” means a local board as defined in *The Municipal Affairs Act*;

R.S.O. 1970,
c. 118

(c) “municipality” means the corporation of a county, city, town, village, township or improvement district or of a district, metropolitan or regional municipality and a board, commission or other local authority exercising any power in respect of municipal affairs or purposes, including school purposes, in an unorganized township or unsurveyed territory.

(d) “ratepayer” means,

(i) in respect of a municipality or a local board thereof, other than a school board, a person entitled to vote at a municipal election in the municipality, and

(ii) in respect of a public, separate or secondary school board, a person entitled to vote at the election of members of such board;

(e) “senior officer” means the chairman or any vice-chairman of the board of directors, the president, any vice-president, the secretary, the treasurer or the general manager of a corporation or any other person who performs functions for the corporation similar to those normally performed by a person occupying any such office.

Idem

(2) For the purposes of clause *a* of subsection 3, a member of a council or of a local board shall be deemed to have a controlling interest in a corporation if he beneficially owns, directly or indirectly, or exercises control or direction over, equity shares of the corporation carrying more than 10 per cent of the voting rights attached to all equity shares of the corporation for the time being outstanding.

Idem

(3) For the purposes of this Act, a member of a council or of a local board has an indirect pecuniary interest in a contract or proposed contract with the municipality or local board or in any contract or proposed contract that is reasonably likely to be affected by a decision of the council or local board or in any other matter in which the council or local board is concerned, as the case may be,

(a) if he or his nominee is a shareholder in, or a director or senior officer of, a corporation that does not offer its securities to the public or has a controlling interest in, or is a director or senior officer of, a corporation that offers its securities to the public or is a member of a body,

(i) with which the contract is made or is proposed to be made, or

(ii) that has an interest in a contract or proposed contract that is reasonably likely to be affected by a decision of the council or local board, or

(iii) that has an interest in any other matter in which the council or local board is concerned; or

(b) if he is a partner of a person, or is in the employment of a person or a body,

(i) with whom the contract is made or is proposed to be made, or

(ii) that has an interest in a contract or proposed contract that is reasonably likely to be affected by a decision of the council or local board, or

(iii) that has an interest in any other matter in which the council or local board is concerned.

Idem

(4) A member of a council or of a local board does not have an indirect pecuniary interest by reason only of his being a director or senior officer of a corporation incorporated

for the purpose of carrying on business for and on behalf of the municipality or local board or by reason of his being a member of a board, commission or other body as an appointee of the council or local board.

(5) Where the number of members of a council or of a local board who have an indirect pecuniary interest by reason of the application of clause *b* of subsection 3 is such that at any meeting the remaining members are not of sufficient number to constitute a quorum, then, notwithstanding any other general or special Act, the remaining number of members shall be deemed to constitute a quorum, provided such number is not less than two. ^{Quorum deemed constituted}

2.—(1) Where a member of a council or of a local board, either on his own behalf or while acting for, by, with or through another, has any pecuniary interest, direct or indirect, ^{Duty to disclose interest in contracts, etc.}

- (a) in any contract or proposed contract with the municipality or local board, as the case may be;
- (b) in any contract or proposed contract that is reasonably likely to be affected by a decision of the council or local board; or
- (c) in any other matter in which the council or local board is concerned,

and is present at a meeting, including a committee or other meeting, of the council or local board at which the contract, proposed contract or other matter is the subject of consideration, he shall, as soon as practicable after the commencement of the meeting, disclose his interest and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract, proposed contract or other matter, or attempt in any way to influence the voting on any such question.

(2) Where the interest of a member of a council or of a local board has not been disclosed as required by subsection 1 by reason of his absence from the meeting referred to therein or by reason of such interest having been acquired after such meeting, he shall disclose his interest and otherwise comply with subsection 1 at the first meeting of the council or local board, as the case may be, attended by him after the meeting referred to in subsection 1 or after acquiring such interest. ^{Idem}

(3) The interest of any spouse, son, daughter or any other relative of a member of a council or local board who has the same home as such member, shall if known to the member, be deemed for the purposes of this section to be also an interest of the member. ^{Idem, associates}

Where
subss. 1, 2,
do not
apply

(4) Subsections 1 and 2 do not apply to an interest in a contract, proposed contract or other matter that a member may have,

- (a) as a ratepayer, or as a user of any public utility service supplied to him by the municipality or local board in like manner and subject to the like conditions as are applicable in the case of persons who are not members of the council or local board;
- (b) by reason of his being entitled to receive on terms common to other persons any service or commodity or any subsidy, loan or other such benefit offered by the municipality or local board;
- (c) by reason of his purchasing or owning a debenture of the municipality or local board; or
- (d) by reason of his having made a deposit with the municipality or local board, the whole or part of which is or may be returnable to him in like manner as such a deposit is or may be returnable to all other ratepayers.

Disclosure
of interest
to be
recorded

(5) Every disclosure of interest under subsection 1 or 2 shall be recorded in the minutes of the meeting by the clerk of the municipality or secretary of the local board, as the case may be.

Proceedings
not invali-
dated, but
voidable

(6) The failure of any person to comply with subsection 1 or 2 does not of itself invalidate any contract, or the proceedings in respect of any proposed contract, or other matter mentioned in subsection 1 or 2, but the contract or the proceedings in respect of any proposed contract or other matter are voidable at the instance of the municipality or of the local board, as the case may be, before the expiration of two years from the date of the passing of the by-law or resolution authorizing the contract or proposed contract or other matter.

Interpreta-
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7.—(1) Section 2 does not apply to the election or appointment of a member of a council or local board to fill a vacancy, office or position in the council or local board when the council or local board is empowered or required by any general or special Act to fill such vacancy, office or position. Application of Act, to filling vacancies

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An Act respecting Conflict of
Interest of Members of Municipal
Councils and Local Boards

1st Reading

June 28th, 1972

2nd Reading

December 14th, 1972

3rd Reading

December 15th, 1972

THE HON. D. A. BALES
Attorney General

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BILL 215

Government Bill

Government
Publication

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972 III

The Corporations Tax Act, 1972

THE HON. A. GROSSMAN
Minister of Revenue



TORONTO

PRINTED AND PUBLISHED BY THE QUEEN'S PRINTER AND PUBLISHER

EXPLANATORY NOTES

GENERAL: This Bill replaces the provisions of *The Corporations Tax Act*, R.S.O. 1970. The Act will continue to impose a tax on a corporation at a rate of 12 per cent of its total taxable income and will permit a deduction from tax of a specified portion thereof if the corporation has a permanent establishment outside Ontario. In addition, where a corporation non-resident in Canada disposes of taxable Canadian property, the taxable capital gain arising therefrom will form part of its taxable income.

Taxable income which includes for the first time taxable capital gains is calculated, with the exception of the provisions relating to mining and gas and oil corporations, amounts paid to a corporation under the *Employment Support Act* (Canada) and capital cost allowances related to recent acquisitions of machinery and equipment in the same manner as under the *Income Tax Act* (Canada) for 1972. These provisions are incorporated in Parts I and II of the Act.

The new Act will continue to impose a tax measured with respect to paid-up capital at one-tenth of 1 per cent and special capital taxes on banks, railways, telegraph companies, express companies, sleeping, dining and parlour cars companies at the rates applied under the former Act. The new Act also continues to tax insurance corporations at 2 per cent calculated on all gross premium income plus a tax of one-half of 1 per cent on gross premium income with respect to certain property. The latter tax replaces the levy formerly imposed on fire insurance premiums under *The Fire Marshals Act*. These provisions are found in Parts III and IV of the Act.

The Regulations to be made under the Act pertaining to mining and gas and oil corporations will provide for the continuation of the deduction of exploration and development expenses incurred up to the end of 1971 in the same manner as under the old *Income Tax Act* (Canada) as reflected in the transitional provisions of the new *Income Tax Act* (Canada). Such expenditures incurred after 1971, with the exception of foreign exploration and development expenses, will be deductible in the same way as under the new *Income Tax Act* (Canada). These Regulations will also provide for the continuation of the allowance (commonly referred to as depletion) in respect of an oil or gas well, mine or timber limit. These deductions and allowances are the same as the Federal authorities have indicated will be allowable to the end of 1976.

The administrative sections are contained in Parts V and VI and are the same as they existed under *The Corporations Tax Act*, R.S.O. 1970 except for the new provisions allowing interest on deposits made to obtain lien clearances if, when the return is filed, there is an over payment of tax.

BILL 215

1972

The Corporations Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

INTERPRETATION

1.—(1) In this Act,

Interpre-
tation

1. "adjusted cost base" has the meaning given to that expression by section 56;
2. "allowable capital loss" has the meaning given to that expression by section 40;
3. "amount" means money, rights or things expressed in terms of the amount of money or the value in terms of money of the right or thing, except that the "amount" of any stock dividend paid by a corporation is the amount of the increase in the paid-up capital of the corporation by virtue of the payment of the dividend;
4. "annuity" includes an amount payable on a periodic basis whether payable at intervals longer or shorter than a year and whether payable under a contract, will or trust or otherwise;
5. "assessment" includes a reassessment;
6. "bank" means a corporation or joint stock company wherever incorporated for the purpose of doing a banking business or the business of a savings bank that transacts such business in Ontario, whether the head office is situate in Ontario or elsewhere;
7. "business" includes a profession, calling, trade, manufacture or undertaking of any kind whatsoever and

includes an adventure or concern in the nature of trade but does not include office or employment;

1970-71,
c. 63 (Can.)

8. "Canadian-controlled private corporation" has the meaning given to that expression by subsection 6 of section 125 of the *Income Tax Act* (Canada);
9. "Canadian corporation" has the meaning given to that expression by subsection 1 of section 83;
10. "capital dividend" has the meaning given to that expression by subsection 2 of section 77;
11. "capital gain" for a fiscal year from the disposition of any property has the meaning given to that expression by section 41;
12. "capital interest" of a corporation in a trust has the meaning given to that expression by clause *b* of subsection 1 of section 97;
13. "capital loss" for a fiscal year from the disposition of property has the meaning given to that expression by section 41;
14. "capital property" has the meaning given to that expression by section 56;
15. "common share" is a share the holder of which is not precluded upon the reduction or redemption of the capital stock from participating in the assets of the corporation beyond the amount paid up thereon plus a fixed premium and a defined rate of dividend;
16. "Comptroller" means Comptroller of Revenue;
17. "corporation" means any corporation however or wherever incorporated and where any corporation or the whole or any part of the property thereof is placed in the hands or under the control of an agent, assignee, trustee, liquidator, receiver or other official, includes such agent, assignee, trustee, liquidator, receiver or other official, but does not include a corporation incorporated without share capital;
18. "cost amount" to a corporation of any property at any time means, except as expressly otherwise provided in this Act,
 - i. where the property was depreciable property of the corporation of a prescribed class, that

proportion of the undepreciated capital cost to it of property of that class at that time that the capital cost to it of the property is of the capital cost to it of all property of that class,

- ii. where the property was capital property, other than depreciable property, of the corporation, its adjusted cost base to it at that time,
 - iii. where the property was property described in an inventory of the corporation, its value at that time as determined for the purpose of computing its income,
 - iv. where the property was eligible capital property of the corporation in respect of a business, the cumulative eligible capital of the corporation in respect of the business at that time,
 - v. where the property was a debt owing to the corporation, other than a debt the amount of which was deducted under clause *r* of subsection 1 of section 24 in computing the corporation's income for a fiscal year ending before that time, or any other right of the corporation to receive an amount, the amount of the debt or other right that was outstanding at that time, and
 - vi. in any other case, the cost to the corporation of the property as determined for the purpose of computing its income, except to the extent that such cost has been deducted in computing its income from any fiscal year ending before that time;
- 19. "cumulative eligible capital" has the meaning given to that expression by subsection 4 of section 18;
 - 20. "deferred profit sharing plan" has the meaning given to that expression by subsection 1 of section 120;
 - 21. "depreciable property" has the meaning given to that expression by subsection 17 of section 17;
 - 22. "designated surplus" has the meaning given to that expression by Part VII of the *Income Tax Act*^{1970-71, c. 63 (Can.)} (Canada);

23. "dividend" includes a stock dividend, other than a stock dividend that was paid before 1972;
24. "eligible capital expenditure" has the meaning given to that expression by subsection 4 of section 18;
25. "eligible capital property" has the meaning given to that expression by section 56;
26. "employed" means performing the duties of an office or employment;
27. "employee" includes officer;
28. "employees profit sharing plan" has the meaning given to that expression by subsection 1 of section 118;
29. "employer", in relation to an officer, means the person from whom the officer receives his remuneration;
30. "employment" means the position of an individual in the service of some other person, including Her Majesty or a foreign state or sovereign, and "servant" or "employee" means a person holding such a position;
31. "exempt income" means money or property received or acquired by a corporation in such circumstances that it is, by reason of any provision in Part II, not included in computing its income, but for greater certainty does not include a dividend on a share;
32. "farming" includes tillage of the soil, live stock raising or exhibiting, maintaining of horses for racing, raising of poultry, fur farming, dairy farming, fruit growing and the keeping of bees, but does not include an office or employment under a person engaged in the business of farming;
33. "fiscal year" means the period for which the accounts of the business of a corporation are ordinarily made up and accepted for purposes of assessment under this Act and, in the absence of an established practice, the fiscal year is that adopted by a corporation, but no fiscal year may exceed fifty-three weeks and any change in a usual and accepted fiscal year shall be made for the purposes of this Act only with the concurrence of or in accordance with the direction of the Minister;

34. "fishing" includes fishing for or catching shell fish, crustaceans and marine animals but does not include an office or employment under a person engaged in the business of fishing;
35. "gross revenue" means the aggregate of all amounts received in a fiscal year or receivable in the fiscal year, depending on the method regularly followed by the corporation in computing its profit, otherwise than as or on account of capital;
36. "income bond" or "income debenture" means respectively a bond or debenture in respect of which interest or dividends are payable only when the debtor corporation has made a profit before taking into account the interest or dividend obligation on such bond or debenture;
37. "income interest" of a corporation in a trust has the meaning given to that expression by clause *e* of subsection 1 of section 97;
38. "insurance corporation" or "insurer" means a corporation with or without share capital that carries on an insurance business;
39. "*inter vivos* trust" has the meaning given to that expression by subsection 1 of section 97;
40. "inventory" means a description of property the cost or value of which is relevant in computing the income of a corporation from a business for a fiscal year;
41. "jurisdiction" means a province or territory of Canada or a state outside Canada having sovereign power;
42. "life insurance business" includes,
 - i. an annuities business, and
 - ii. the business of issuing contracts all or any part of the issuer's reserves for which vary in amount depending upon the fair market value of a specified group of assets,

carried on by a life insurance corporation or life insurer;

43. "life insurance corporation" or "life insurer" means a corporation that carries on a life insurance business that is not a business described in sub-paragraph i or ii of paragraph 42 whether or not it also carries on a business described in either of those sub-paragraphs;
44. "listed personal property" has the meaning given to that expression by section 56;
45. "minerals" do not include petroleum, natural gas or related hydrocarbons, except coal or bituminous sands;
46. "mineral resource" means,
 - i. a base or precious metal deposit,
 - ii. a coal deposit,
 - iii. a bituminous sands deposit, or
 - iv. a mineral deposit in respect of which,
 - (A) the Minister has certified that the principal mineral extracted is an industrial mineral contained in a non-bedded deposit,
 - (B) the principal mineral extracted is syl-vite,
 - (C) the principal mineral extracted is halite that is extracted by underground mining and not by operating a brine well,
 - (D) the principal mineral extracted is silica that is extracted from sandstone or quartzite, or
 - (E) the principal mineral extracted is gypsum;
47. "Minister" means the Minister of Revenue;
48. "net capital loss" has the meaning given to that expression by subsection 7 of section 99;
49. "non-capital loss" has the meaning given to that expression by subsection 7 of section 99;

50. "non-resident" means not resident in Canada;
51. "non-resident-owned investment corporation" has the meaning given to that expression by subsection 5 of section 110;
52. "paid-up capital deficiency" has the meaning given to that expression by clause *d* of subsection 1 of section 83;
53. "permanent establishment" has the meaning given to that expression by section 7;
54. "personal-use property" has the meaning given to that expression by section 56;
55. "preferred share" means a share other than a common share;
56. "prescribed" in the case of a form or the information to be given on a form, means prescribed by order of the Minister, and in any other case, means prescribed by regulation;
57. "principal amount" in relation to any obligation means the amount that, under the terms of the obligation or any agreement relating thereto, is the maximum amount or maximum aggregate amount, as the case may be, payable on account of the obligation by the issuer thereof, otherwise than as or on account of interest or as or on account of any premium payable by the issuer conditional upon the exercise by the issuer of a right to redeem the obligation before the maturity thereof;
58. "private corporation" has the meaning given to that expression by subsection 1 of section 83;
59. "property" means property of any kind whatsoever whether real or personal or corporeal or incorporeal and, without restricting the generality of the foregoing, includes a right of any kind whatever, a share or a chose in action and, unless a contrary intention is evident, money;
60. "public corporation" has the meaning given to that expression by subsection 1 of section 83;
61. "railway" includes a railway and part of a railway operated in whole or in part by steam, electricity or

other motive power, constructed and operated on highways or on land owned by the corporation that owns or operates it, or partly on highways and partly on such land, but does not include a street railway constructed or operated in whole or in part upon or along a highway under or by virtue of an agreement with or a by-law of a city or town;

62. "registered Canadian amateur athletic association" has the meaning given to that expression by subsection 4 of section 98;
63. "registered Canadian charitable organization" has the meaning given to that expression by subsection 4 of section 98;
64. "registered pension fund or plan" means an employees' superannuation or pension fund or plan accepted for registration by the Minister of National Revenue for purposes of the *Income Tax Act* (Canada) in respect of its constitution and operations for the fiscal year under consideration;
65. "registered supplementary unemployment benefit plan" has the meaning given to that expression by subsection 1 of section 119;
66. "regulations" means regulations made under this Act;
67. "resident in Canada" means resident in Canada for purposes of the *Income Tax Act* (Canada);
68. "restricted farm loss" has the meaning given to that expression by subsection 1 of section 33;
69. "share" means a share of capital stock of a corporation;
70. "shareholder" includes a member or other person entitled to receive payment of a dividend;
71. "subsidiary controlled corporation" means a corporation more than 50 per cent of the issued share capital of which, having full voting rights under all circumstances, belongs to the corporation to which it is subsidiary;
72. "subsidiary wholly-owned corporation" means a corporation all the issued share capital of which, except directors' qualifying shares, belong to the corporation to which it is subsidiary;

73. "superannuation or pension benefit" includes any amount received out of or under a superannuation or pension fund or plan and without restricting the generality of the foregoing, includes any payment made to a beneficiary under the fund or plan or to an employer or former employer of the beneficiary thereunder,
- i. in accordance with the terms of the fund or plan,
 - ii. resulting from an amendment to or modification of the fund or plan, or
 - iii. resulting from the termination of the fund or plan;
74. "supplementary unemployment benefit plan" has the meaning given to that expression by subsection 1 of section 119;
75. "tax payable" by a corporation under any Part of the Act means the tax payable by the corporation as fixed by assessment or reassessment subject to variation on objection or appeal, if any, in accordance with sections 154 to 160, as the case may be;
76. "taxable Canadian corporation" has the meaning given to that expression by subsection 1 of section 83;
77. "taxable Canadian property" has the meaning given to that expression by subsection 1 of section 115 of the *Income Tax Act* (Canada) except that for the purposes only of section 2, the expression "taxable Canadian property" includes a Canadian resource property within the meaning assigned by subsection 12 of section 63, any property that would have been a Canadian resource property within the meaning assigned by subsection 12 of section 63, if it had been acquired after 1971, and an income interest in a trust resident in Canada;^{1970-71, c. 63 (Can.)}
78. "taxable capital gain" has the meaning given to that expression by section 40;
79. "taxable dividend" has the meaning given to that expression by subsection 1 of section 83;
80. "taxable income" has the meaning given to that expression by section 9;

81. "taxable income earned in Canada" has the meaning given to that expression by section 10;
82. "taxable net gain" from dispositions of listed personal property has the meaning given to that expression by section 43;
83. "taxation year" means that fiscal year in relation to which the amount of a tax under this Act is being calculated when the expression is used to distinguish it from another fiscal year;
84. "tax-paid undistributed surplus on hand" has the meaning given to that expression by subsection 1 of section 83;
85. "unit trust" has the meaning given to that expression by subsection 2 of section 97;
86. "1971 capital surplus on hand" has the meaning given to that expression by subsections 1 or 2 of section 83;
87. "1971 undistributed income on hand" has the meaning given to that expression by subsection 4 or 5 of section 196 of the *Income Tax Act* (Canada).

1970-71,
c. 63 (Can.)

"Taxation
year"

(2) For the purposes of this Act, a reference to a taxation year ending in another year includes a reference to a taxation year ending coincidentally with that other year.

Arm's
length

(3) For the purposes of this Act,

- (a) related persons shall be deemed not to deal with each other at arm's length; and
- (b) it is a question of fact whether persons not related to each other were at a particular time dealing with each other at arm's length.

Relationship
defined

(4) For the purpose of this Act "related persons", or persons related to each other, are,

- (a) individuals connected by blood relationship, marriage or adoption;
- (b) a corporation and,
 - (i) a person who controls the corporation, if it is controlled by one person,

- (ii) a person who is a member of a related group that controls the corporation, or
 - (iii) any person related to a person described in subclause i or ii;
- (c) any two corporations,
- (i) if they are controlled by the same person or group of persons,
 - (ii) if each of the corporations is controlled by one person and the person who controls one of the corporations is related to the person who controls the other corporation,
 - (iii) if one of the corporations is controlled by one person and that person is related to any member of a related group that controls the other corporation,
 - (iv) if one of the corporations is controlled by one person and that person is related to each member of an unrelated group that controls the other corporation,
 - (v) if any member of a related group that controls one of the corporations is related to each member of an unrelated group that controls the other corporation, or
 - (vi) if each member of an unrelated group that controls one of the corporations is related to at least one member of an unrelated group that controls the other corporation.

(5) Where two corporations are related to the same corporation within the meaning of subsection 4, they shall, for the purposes of subsections 3 and 4, be deemed to be related to each other. Corporations related to each other

(6) In this Act,

Groups

- (a) “related group” means a group of persons each member of which is related to every other member of the group; and
- (b) “unrelated group” means a group of persons that is not a related group.

Control by
related
groups,
options, etc.

(7) For the purposes of subsection 4,

- (a) where a related group is in a position to control a corporation, it shall be deemed to be a related group that controls the corporation whether or not it is part of a larger group by whom the corporation is in fact controlled;
- (b) a person who had a right under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, shares in a corporation, or to control the voting rights of shares in a corporation, shall, except where the contract provided that the right is not exercisable until the death of an individual designated therein, be deemed to have had the same position in relation to the control of the corporation as if he owned the shares; and
- (c) where a person owns shares in two or more corporations, he shall as shareholder of one of the corporations be deemed to be related to himself as shareholder of each of the other corporations.

Persons
related by
blood
relationship,
etc.

(8) For the purposes of this Act,

- (a) persons are connected by blood relationship if one is the child or other descendant of the other or one is the brother or sister of the other;
- (b) persons are connected by marriage if one is married to the other or to a person who is so connected by blood relationship to the other; and
- (c) persons are connected by adoption if one has been adopted, either legally or in fact, as a child of the other or as the child of a person who is so connected by blood relationship, otherwise than as a brother or sister, to the other. R.S.O. 1970, c. 91, s. 1, *amended*.

LIABILITY FOR TAXES

Taxes
payable

2.—(1) Every corporation that is incorporated under the laws of Canada or a province thereof and that has a permanent establishment in Ontario shall for every fiscal year of the corporation pay to Her Majesty for the uses of Ontario the taxes imposed by this Act at the time and in the manner provided in this Act. R.S.O. 1970, c. 91, s. 4 (1), *amended*.

(2) Every corporation that is incorporated under the laws ^{Idem} of a jurisdiction outside Canada, which jurisdiction has not entered into a Tax Convention or Treaty with Canada for the fiscal year, and that at any time in the fiscal year or a previous fiscal year,

- (a) had a permanent establishment in Ontario within the meaning of section 7; or
- (b) owned real property in Ontario; or
- (c) disposed of taxable Canadian property within the meaning assigned to that expression in paragraph 77 of subsection 1 of section 1 that was property situated in Ontario,

shall for every fiscal year of the corporation pay to Her Majesty for the uses of Ontario the taxes imposed by this Act at the time and in the manner provided in this Act.

(3) Every corporation that is incorporated under the laws ^{Idem} of a jurisdiction outside Canada, which jurisdiction has entered into a Tax Convention or Treaty with Canada for the fiscal year, and that, at any time in the fiscal year or a previous fiscal year,

- (a) had a permanent establishment in Ontario within the meaning of section 7; or
- (b) owned real property in Ontario and has elected to be taxed under Part I of the *Income Tax Act* (Canada) ^{1970-71, c. 63 (Can.)} pursuant to section 216 of that Act; or
- (c) disposed of taxable Canadian property, within the meaning assigned to that expression in paragraph 77 of subsection 1 of section 1 that was property situated in Ontario,

shall for every fiscal year of the corporation pay to Her Majesty for the uses of Ontario the taxes imposed by this Act at the time and in the manner provided in this Act. R.S.O. 1970, c. 91, s. 4 (1).

3. For the purposes of subsection 2 or 3 of section 2, a ^{Interpre-} corporation "owned real property" if it had a legal, equitable or beneficial interest in the real property. R.S.O. 1970, c. 91, s. 3 (10), *amended*.

4. For the purposes of this Act, where a fiscal year is ^{Fiscal} referred to by a reference to a calendar year, the reference is ^{year} to the fiscal year or years coinciding with, or ending in, that year. R.S.O. 1970, c. 91, s. 4 (2).

Incomplete
fiscal
year

5. Where a corporation ceases to be liable for taxes imposed under this Act during a fiscal year or the existence of a corporation is terminated during a fiscal year, it shall, in respect of such incomplete fiscal year, pay the taxes imposed by this Act in the same manner as though such fiscal year ended on the date on which it ceased to be liable for taxes or upon which its existence was terminated, as the case may be. R.S.O. 1970, c. 91, s. 4 (3), *amended*.

How tax
to be
determined

6.—(1) Unless otherwise provided in this Act, any tax imposed by this Act shall be determined on the amount of the paid-up capital stock, mileage or other subject in respect of which the amount of the tax is to be ascertained as such paid-up capital stock, mileage or other subject stood at the close of the fiscal year of the corporation for which the tax is imposed.

Idem

(2) Any tax imposed by this Act that is to be calculated in respect of,

(a) the taxable income of a corporation; or

(b) the gross premiums that become payable to insurance corporations,

shall be calculated with reference to the taxable income earned or the gross premiums that become payable, as the case may be, during the fiscal year of the corporation for which the respective tax is imposed. *New*.

Permanent
establish-
ment

7.—(1) In this Act, "permanent establishment" includes branches, mines, oil wells, farms, timberlands, factories, workshops, warehouses, offices, agencies and other fixed places of business.

Idem

(2) Where a corporation carries on business through an employee or agent who has general authority to contract for the corporation or who has a stock of merchandise owned by the corporation from which he regularly fills orders which he receives, such employee or agent shall be deemed to operate a permanent establishment of the corporation.

(3) The fact that a corporation has business dealings through a commission agent, broker or other independent agent shall not of itself be deemed to mean that the corporation has a permanent establishment.

Idem

(4) The fact that a corporation has a subsidiary controlled corporation in a place or a subsidiary controlled corporation engaged in a trade or business in a place shall not of itself be deemed to mean that the first-mentioned corporation is operating a permanent establishment in that place.

(5) An insurance corporation is deemed to have a permanent ^{Idem} establishment in each jurisdiction in which the corporation is registered or licensed to do business.

(6) The fact that a corporation maintains an office solely for ^{Idem} the purchase of merchandise shall not of itself be deemed to mean that the corporation has a permanent establishment in that office.

(7) Where a corporation, otherwise having a permanent ^{Idem} establishment in Canada, owns land in a province, such land is a permanent establishment.

(8) The fact that a non-resident corporation in a fiscal year ^{Idem} produced, grew, mined, created, manufactured, fabricated, improved, packed, preserved or constructed in whole or in part anything in Canada whether or not the corporation exported that thing without selling it prior to exportation, shall of itself, for the purposes of this Act, be deemed to mean that the corporation maintained a permanent establishment at any place where the corporation did any of those things in the fiscal year.

(9) The use of substantial machinery or equipment in a ^{Idem} particular place at any time in a fiscal year of a corporation constitutes a permanent establishment of such corporation in that place for the fiscal year.

(10) Where a corporation has no fixed place of business, it ^{Idem} has a permanent establishment in the principal place in which the corporation's business is conducted.

(11) A corporation has a permanent establishment in the ^{Idem} place designated in its charter or by-laws as being its head office. R.S.O. 1970, c. 91, s. 3, *amended*.

PART II

DIVISION A—LIABILITY FOR INCOME TAX

8.—(1) Except as otherwise provided in this Part, every ^{Income tax} corporation liable to the taxes imposed under this Act by virtue of subsection 1 of section 2, shall, for every fiscal year of the corporation pay an income tax as hereinafter required upon its taxable income.

(2) Except as otherwise provided in this Part, every cor- ^{Idem} poration liable to the taxes imposed under this Act by virtue of subsection 2 or 3 of section 2 shall, for every fiscal year of the corporation pay an income tax as hereinafter required upon its taxable income earned in Canada. R.S.O. 1970, c. 91, s. 4 (1), *amended*.

Idem **9.** The taxable income of a corporation for a fiscal year is its income for the fiscal year minus the deductions permitted by Division C. R.S.O. 1970, c. 91, s. 14, *amended*.

Idem **10.** The taxable income earned in Canada of a corporation for a fiscal year is its taxable income earned in Canada determined under Division D. *New*.

Exemptions **11.** Except as provided in subsection 3 or 4 of section 122 no tax is payable under this Part upon the taxable income of a corporation for a period when that corporation was a corporation referred to in section 122. *New*.

DIVISION B—COMPUTATION OF INCOME

Basic Rules

Income for fiscal year **12.** The income of a corporation for a fiscal year for purposes of this Part is its income for the year determined by the following rules,

(a) determine the aggregate of amounts each of which is the income of the corporation for the fiscal year, other than a taxable capital gain from the disposition of a property, from a source inside or outside Canada, including, without restricting the generality of the foregoing, its income for the fiscal year from all business and property;

(b) determine the amount, if any, by which,

(i) the aggregate of its taxable capital gains for the fiscal year from dispositions of property other than listed personal property, and its taxable net gain for the fiscal year from dispositions of listed personal property,

exceeds,

(ii) its allowable capital losses for the fiscal year from dispositions of property other than listed personal property;

(c) determine the amount, if any, by which the aggregate determined under clause *a* plus the amount determined under clause *b* exceeds the aggregate of the deductions permitted by Subdivision D in computing the income of the corporation for the fiscal year, except such of or such part of those deductions, if any, as have been taken into account in determining the aggregate referred to in clause *a*; and

- (d) determine the amount, if any, by which the remainder determined under clause *c* exceeds the aggregate of amounts each of which is its loss for the fiscal year from a business or property,

and the remainder, if any, obtained under clause *d* is the income of the corporation for the fiscal year for the purposes of this Part. R.S.O. 1970, c. 91, s. 15, *amended*.

13.—(1) For the purposes of this Act,

- (a) the income or loss of a corporation for a fiscal year from a business, property or other source, or from sources in a particular place, is its income or loss, as the case may be, computed in accordance with this Act on the assumption that it had during the fiscal year no income or loss except from that source or no income or loss except from those sources, as the case may be, and was allowed no deductions in computing its income for the fiscal year except such deductions as may reasonably be regarded as wholly applicable to that source or to those sources, as the case may be, and except such part of any other deductions as may reasonably be regarded as applicable thereto; and R.S.O. 1970, c. 91, s. 25 (4), *amended*.
- (b) where the business carried on or the service performed by a corporation was carried on or performed, as the case may be, partly in one place and partly in another place, the income or loss of the corporation for the fiscal year from the business carried on or the service performed by it in a particular place is the income or loss of the corporation, as the case may be, computed in accordance with this Act on the assumption that it had during the fiscal year no income or loss except from the part of the business that was carried on or the service performed in that particular place, as the case may be, and was allowed no deductions in computing its income for the fiscal year except such deductions as may reasonably be regarded as wholly applicable to that part of the business or the services performed, as the case may be, and except such part of any other deductions as may reasonably be regarded as applicable thereto. R.S.O. 1970, c. 91, s. 25 (5), *amended*.

Income or
loss from
a source
or from
sources in a
place

(2) Subject to subsection 3, in applying subsection 1 for the ^{Idem} purposes of this Part, no deductions permitted by subsection 1 of section 60 are applicable either wholly or in part to a particular source or to sources in a particular place, as the case may be. *New*.

Deductions
applicable

(3) In applying clause *b* of subsection 1 for the purposes of section 101 all deductions allowed in computing the income of a corporation for a fiscal year for the purposes of this Part shall be deemed to be applicable either wholly or in part to a particular source or to sources in a particular place, as the case may be. *New*.

Limitation
respecting
inclusions
and
deductions

(4) Unless a contrary intention is evident, no provision of this Part shall be read or construed to require the inclusion or to permit the deduction, in computing the income of a corporation for a fiscal year or its income or loss for a fiscal year from a particular source or from sources in a particular place, of any amount to the extent that that amount has been included or deducted, as the case may be, in computing such income or loss under, in accordance with or by virtue of any other provision of this Part. *New*.

SUBDIVISION A—INCOME OR LOSS FROM A BUSINESS OR PROPERTY

Basic Rules

Income
from
business or
property

14.—(1) Subject to this Part, the income of a corporation for a fiscal year from a business or property is its profit therefrom for the fiscal year. R.S.O. 1970, c. 91, s. 16, *amended*.

Loss from
business or
property

(2) Subject to section 33, the loss of a corporation for a fiscal year from a business or property is the amount of its loss, if any, for the fiscal year from that source computed by applying the provisions of this Act respecting computation of income from that source *mutatis mutandis*.

Gains and
losses not
included

(3) In this Act, “income from a property” does not include any capital gain from the disposition of that property and “loss from a property” does not include any capital loss from the disposition of that property. *New*.

Valuation
of inventory
property

15.—(1) For the purpose of computing income from a business, the property described in an inventory shall, except as provided in subsection 2, be valued at the same amount and for the same fiscal year, as is accepted for assessment under the *Income Tax Act* (Canada) and the regulations made thereunder. R.S.O. 1970, c. 91, s. 26 (1), *amended*.

1970-71,
c. 63 (Can.)

Idem

(2) Notwithstanding subsection 1, the Minister may determine the value of the property described in an inventory for the purposes of assessment under this Act if he is of the opinion that the values have been incorrectly determined by the corporation.

(3) Notwithstanding subsections 1 and 2, for the purpose of ^{Idem} computing income for a fiscal year from a business, the property described in an inventory at the commencement of the fiscal year shall be valued at the same amount as the amount at which it was valued at the end of the immediately preceding fiscal year for the purpose of computing income for that preceding fiscal year. R.S.O. 1970, c. 91, s. 26 (2), *amended*.

(4) Where the property described in the inventory of a ^{Incorrect valuation} business at the commencement of a fiscal year has, according to the method adopted by the corporation for computing income from the business for that fiscal year, not been valued as required by subsections 1 and 2, the property described therein at the commencement of that fiscal year shall, if the Minister so directs, be deemed to have been valued as required by that subsection. R.S.O. 1970, c. 91, s. 36, *amended*.

Inclusions

16.—(1) There shall be included in computing the income ^{Amounts to be included as income from business or property} of a corporation for a fiscal year as income from a business or property such of the following amounts as are applicable,

(a) any amount received by the corporation in the year ^{Services, etc., to be rendered} in the course of a business,

(i) that is on account of services not rendered or goods not delivered before the end of the year or that, for any other reason, may be regarded as not having been earned in the year or a previous year, or

(ii) under an arrangement or understanding that it is repayable in whole or in part on the return or resale to the corporation of articles in or by means of which goods were delivered to a customer; R.S.O. 1970, c. 91, s. 61 (1) (a).

(b) any amount receivable by the corporation in respect ^{Amounts receivable in respect of services etc., rendered} of property sold or services rendered in the course of a business in the year, notwithstanding that the amount may not be receivable until a subsequent year, unless the method adopted by the corporation for computing income from the business and accepted for the purpose of this Part does not require it to include any amount receivable in computing its income for a fiscal year unless it has been received in the year; R.S.O. 1970, c. 91, s. 61 (1) (b).

(c) any amount received by the corporation in the year ^{Interest} or receivable by the corporation in the year, depend-

ing upon the method regularly followed by the corporation in computing its profit, as, on account or in lieu of payment of, or in satisfaction of, interest; R.S.O. 1970, c. 91, s. 17 (c).

Reserve for doubtful debts

- (d) any amount deducted as a reserve for doubtful debts in computing the corporation's income for the immediately preceding year; R.S.O. 1970, c. 91, s. 17 (e).

Reserves in respect of certain goods and services, etc.

- (e) any amount,

(i) deducted under clause *o* of subsection 1 of section 24, including any amount substituted by virtue of subsection 7 of section 24 for any amount deducted under that clause, or subsection 8 of section 24, or

(ii) deducted under clause *p* of subsection 1 of section 24 or subsection 8 of section 24,

in computing the corporation's income from a business for the immediately preceding year; R.S.O. 1970, c. 91, s. 61 (1) (f).

Insurance proceeds expended

- (f) such part of any amount payable to the corporation as compensation for damage to, or under a policy of insurance in respect of damage to, property that is depreciable property of the corporation as has been expended by the corporation,

(i) within the year, and

(ii) within a reasonable time after the damage,

on repairing the damage; R.S.O. 1970, c. 91, s. 17 (f).

Payments based on production or use

- (g) any amount received by the corporation in the year that was dependent upon the use of or production from property whether or not that amount was an instalment of the sale price of the property, except that an instalment of the sale price of agricultural land is not included by virtue of this clause; R.S.O. 1970, c. 91, s. 17 (i).

Previous reserve for quadrennial survey

- (h) any amount deducted as a reserve under clause *q* of subsection 1 of section 24 in computing the corporation's income for the immediately preceding year; R.S.O. 1970, c. 91, s. 17 (g).

- (i) any amount received in the year on account of a debt in respect of which a deduction for bad debts had been made in computing the corporation's income for a previous year; R.S.O. 1970, c. 91, s. 17 (h). Bad debts recovered
- (j) any amount required by Subdivision G to be included in computing the corporation's income for the year in respect of a dividend paid by a corporation resident in Canada on a share of its capital stock; R.S.O. 1970, c. 91, s. 17 (a). Dividends from corporations resident in Canada
- (k) any amount required by Subdivision H to be included in computing the corporation's income for the year in respect of a dividend paid by a corporation not resident in Canada on a share of its capital stock; Dividends from other corporations
- (l) any amount that is, by virtue of Subdivision I income of the corporation for the year from a business or property; R.S.O. 1970, c. 91, s. 17 (d). Partnership income
- (m) any amount required by Subdivision J to be included in computing the income of a corporation for the year except any amount deemed by that subdivision to be a taxable capital gain of the corporation; and Benefits from estates, etc.
- (n) any amount received by the corporation in the year under an employees profit sharing plan established for the benefit of employees of the corporation or of another corporation with whom the corporation does not deal at arm's length. R.S.O. 1970, c. 91, s. 17 (j). Employees profit sharing plan

(2) Clauses *a* and *b* of subsection 1 are enacted for greater certainty and shall not be construed as implying that any amount not referred to therein is not to be included in computing income from a business for a fiscal year whether it is received or receivable in the year or not. R.S.O. 1970, c. 91, s. 61 (2). Interpretation

17.—(1) Where depreciable property of a corporation of a prescribed class has, in a fiscal year, been disposed of and the proceeds of disposition exceed the undepreciated capital cost to it of depreciable property of that class immediately before the disposition, the lesser of, Excess of proceeds over undepreciated capital cost

- (a) the amount of the excess; and
- (b) the amount that the excess would be if the property had been disposed of for the capital cost thereof to the corporation,

shall be included in computing the income of the corporation for the year. R.S.O. 1970, c. 91, s. 32 (1).

Deter-
mination of
net amount

(2) Where one or more amounts are by subsection 1 required to be included in computing a corporation's income for a fiscal year in respect of the disposition of depreciable property of a prescribed class and the corporation has, during the year but following the dispositions, acquired further depreciable property of that class, notwithstanding subsection 1 and clause *f* of subsection 17 the following rules apply,

(a) if the aggregate of the amounts that would, according to the terms of subsection 1, be included thereunder in computing the income of the corporation is equal to or exceeds the amount that would, according to the terms of clause *f* of subsection 17, be the undepreciated capital cost to the corporation of depreciable property of that class at the end of the year before any deduction is made under clause *a* of subsection 1 of section 24 for that year,

(i) the amount to be included in computing the income of the corporation for the year under subsection 1 in respect of dispositions of depreciable property of that class is that aggregate minus the amount that would be that undepreciated capital cost, and

(ii) the undepreciated capital cost to the corporation of depreciable property of that class at the end of the year is nil; and

(b) if the aggregate of the amounts that would, according to the terms of subsection 1, be included thereunder in computing the income of the corporation is less than the amount that would, according to the terms of clause *f* of subsection 17, be the undepreciated capital cost to the corporation of depreciable property of that class at the end of the year before any deduction is made under clause *a* of subsection 1 of section 24 for that year,

(i) no amounts shall be included in computing the income of the corporation for the year in respect of depreciable property of that class under subsection 1, and

(ii) the undepreciated capital cost to the corporation of depreciable property of that class at the end of the year before any deduction is made

under clause *a* of subsection 1 of section 24 for the year is the amount that it would be according to the terms of clause *f* of subsection 17 minus that aggregate. R.S.O. 1970, c. 91, s. 32 (2).

(3) Where an amount that would otherwise be included in computing the income of a corporation for a fiscal year, hereinafter referred to as the "initial year", by virtue of this section is, ^{Insurance and compensation proceeds}

- (a) an amount payable, in respect of loss or destruction of property of a prescribed class,
 - (i) under a policy of insurance, or
 - (ii) otherwise as compensation for the property so lost or destroyed; or
- (b) an amount payable as compensation for property of a prescribed class taken under statutory authority or as the sale price of property sold to a person by whom notice of an intention to take it under statutory authority was given,

the following rules apply,

- (c) the amount shall not, to the extent that it has been expended by the corporation,
 - (i) in the fiscal year immediately following the initial year on acquiring property of the same class,
 - (ii) in the fiscal year immediately following the initial year on acquiring, if the property so lost, destroyed, taken or sold was a building, a building of a prescribed class, or
 - (iii) within a time certified by the Minister to be a reasonable time following the initial year, on acquiring, if the property so lost, destroyed, taken or sold was a vessel, a vessel of a prescribed class,

be included in computing the income of the corporation for the initial year; and

- (d) the amount shall, to the extent that it has not been included in computing the income of the corporation for the initial year, be deemed to be proceeds of a disposition made,

- (i) in the case of a vessel, in the fiscal year in which it is in whole or in part expended in accordance with clause *c*, but only to the extent that it is so expended in that year and only if such year is within the time certified by the Minister under subclause iii of clause *c*, and
- (ii) in the case of any other property, in the fiscal year immediately following the initial year,

of depreciable property of the corporation of the same class as the property so acquired. R.S.O. 1970, c. 91, s. 32 (5).

Transferred
property

(4) Where depreciable property of a corporation that was included in a prescribed class, hereinafter in this subsection referred to as the "former class", has been transferred to another prescribed class, hereinafter in this subsection referred to as the "other class", for the purposes of clause *f* of subsection 17,

- (a) there shall be added to the capital cost to the corporation of depreciable property of the former class acquired before the transfer, the greater of,
 - (i) the amount, if any, by which the capital cost to the corporation of the transferred property exceeds the undepreciated capital cost to the corporation of depreciable property of the former class immediately before the transfer, and
 - (ii) the aggregate of all amounts that would have been allowed to the corporation in respect of the transferred property, if it had been a prescribed class, at the rate that was allowed to the corporation in respect of property of the former class under regulations made under clause *a* of subsection 1 of section 24 in computing income for the fiscal years before the transfer; and
- (b) there shall be added to the total depreciation allowed to the corporation for property of the other class the greater of the amounts. R.S.O. 1970, c. 91, s. 32 (6).

Misclassified
property

(5) Where, in calculating the amount of a deduction allowed to a corporation under regulations made under clause *a* of subsection 1 of section 24 in respect of depreciable property of the corporation of a prescribed class, there has been added to

the capital cost to the corporation of depreciable property of that class the capital cost of depreciable property, hereinafter in this subsection referred to as "added property", of another prescribed class, for the purpose of this section and regulations made under clause *a* of subsection 1 of section 24 the added property shall, if the Minister so directs with reference to any fiscal year for which, within the time specified in clause *a* or *b* of subsection 4 of section 150, the Minister may make any reassessment or additional assessment or assess tax interest or penalties under this Part as the circumstances require, be deemed to have been property of the first-mentioned class and not of the other class at all times before the commencement of that year and, except to the extent that that property or any part thereof has been disposed of by the corporation before the commencement of that year, to have been transferred from the first-mentioned class to the other class at the commencement of that year. R.S.O. 1970, c. 91, s. 32 (7).

(6) For the purpose of this section and any regulations made under clause *a* of subsection 1 of section 24, the following rules apply: Rules
applicable

1. Where a corporation having acquired property for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, has commenced at a later time to use it for some other purpose, the corporation shall be deemed to have disposed of it at that later time at its fair market value at that time. R.S.O. 1970, c. 91, s. 32 (8) par. 1.
2. Where a corporation, having acquired property for some other purpose, has commenced at a later time to use it for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, the corporation shall be deemed to have acquired it at that later time at its fair market value at that time. R.S.O. 1970, c. 91, s. 32 (8) par. 2.
3. Where property has, since it was acquired by a corporation, been regularly used in part for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business and in part for some other purpose, the corporation shall be deemed to have acquired, for the purpose of gaining or producing income, the proportion of the property that the use regularly made of the property for gaining or producing income is of the whole use regularly made of the property at a capital cost to the

corporation equal to the same proportion of the capital cost to it of the whole property; and, if the property has, in such a case, been disposed of, the proceeds of disposition of the proportion of the property deemed to have been acquired for gaining or producing income shall be deemed to be the same proportion of the proceeds of disposition of the whole property. R.S.O. 1970, c. 91, s. 32 (8) par. 5.

4. Where, at any time after a corporation has acquired property, there has been a change in the relation between the use regularly made by the corporation of the property for gaining or producing income and the use regularly made of the property for other purposes,

(i) if the use regularly made by the corporation of the property for the purpose of gaining or producing income has increased, the corporation shall be deemed to have acquired at that time depreciable property of that class at a capital cost equal to the proportion of the fair market value of the property as of that time that the amount of the increase in the use regularly made by the corporation of the property for that purpose is of the whole use regularly made of the property, and

(ii) if the use regularly made of the property for the purpose of gaining or producing income has decreased, the corporation shall be deemed to have disposed at that time of depreciable property of that class and the proceeds of disposition shall be deemed to be an amount equal to the proportion of the fair market value of the property as of that time that the amount of the decrease in the use regularly made by the corporation of the property for that purpose is of the whole use regularly made of the property. R.S.O. 1970, c. 91, s. 32 (8) par. 6.

5. Where a corporation has received or is entitled to receive a grant, subsidy or other assistance from a government, municipality or other public authority in respect of or for the acquisition of property, other than an amount authorized to be paid under an *Appropriation Act* (Canada) in respect of which the provisions of clause *e* of subsection 7 of section 13 of the *Income Tax Act* (Canada) would not apply, or an

amount authorized to be paid under the *Industrial Research and Development Incentives Act* (Canada) or the *Area Development Incentives Act* (Canada) and approved by the Minister, the capital cost of the property shall be deemed to be the capital cost thereof to the corporation minus the amount of the grant, subsidy or other assistance. R.S.O. 1970, c. 91, s. 32 (8) par. 8.

(7) In applying paragraphs 1, 2, 3 and 4 of subsection 6 in respect of a corporation not resident in Canada, a reference to a "business" shall be read as a reference to a business wholly carried on in Canada or such part of a business as is wholly carried on in Canada. R.S.O. 1970, c. 91, s. 32 (9).

(8) Where, in computing the income of a corporation for a fiscal year, an amount has been deducted under clause *ee* of subsection 1 of section 24 or the corporation has elected under subsection 10 of section 24 to make a deduction in respect of an amount that would otherwise have been deductible under that clause, the amount shall, if it was a payment on account of the capital cost of depreciable property, be deemed to have been allowed to the corporation in respect of the property under regulations made under clause *a* of subsection 1 of section 24 in computing the income of the corporation,

(a) for the fiscal year; or

(b) for the fiscal year in which the property was acquired,

whichever is later. R.S.O. 1970, c. 91, s. 32 (12).

(9) Where a deduction has been made under the *Canadian Vessel Construction Assistance Act* (Canada) for any year, subsection 1 is applicable in respect of the prescribed class created by that Act or any other prescribed class to which the vessel may have been transferred. R.S.O. 1970, c. 91, s. 32 (13).

(10) For the purposes of this section and any regulations made under clause *a* of subsection 1 of section 24 a vessel in respect of which any conversion cost is incurred after March 23, 1967 shall, to the extent of the conversion cost, be deemed to be included in a separate prescribed class. R.S.O. 1970, c. 91, s. 32 (14).

(11) Where a vessel owned by a corporation on January 1, 1966 or constructed pursuant to a construction contract entered into by the corporation prior to 1966 and not completed by that date is disposed of by the corporation before 1974,

- (a) subsection 1 and Subdivision B do not apply to the proceeds of disposition,
- (i) if an amount at least equal to the proceeds of disposition is used by the corporation, before 1974 and during the fiscal year of the corporation in which the vessel is disposed of or within 4 months from the end of the fiscal year, under conditions satisfactory to the Minister, either for replacement or to incur any conversion cost with respect to a vessel owned by the corporation, or
 - (ii) if the Minister certifies that the corporation has, on satisfactory terms deposited,
 - (A) on or before the day on which the corporation is required to file a return of its income for the fiscal year in which the vessel was disposed of, or
 - (B) on or before such day subsequent to the day referred to in sub-subclause A, as the Minister may specify in respect of the corporation,

an amount at least equal to the tax that would, but for this subsection, be payable by the corporation under this Part in respect of the proceeds of disposition, or satisfactory security therefor, as a guarantee that the proceeds of disposition will be used before 1974 for replacement; and

- (b) the corporation may, within the time prescribed for the filing of a return of its income for the fiscal year in which the vessel was disposed of, elect to have the vessel constituted a prescribed class, or, if any conversion cost in respect of the vessel has been included in a separate prescribed class, have it transferred to that class, and, if the corporation so elects, the vessel shall be deemed to have been so transferred immediately before the disposition thereof but this clause does not apply unless the proceeds of disposition of the vessel exceed the amount that would be the undepreciated capital cost of the property of the class to which it would be so transferred. R.S.O. 1970, c. 91, s. 32 (15).

(12) Where a vessel owned by a corporation is disposed of by it, the corporation may, if subsection 11 does not apply to the proceeds of disposition or if the corporation does not make an election under clause *b* of subsection 11, within the time prescribed for the filing of a return of its income for the fiscal year in which the vessel is disposed of, elect to have the proceeds that would be included in computing its income for the year by virtue of this Part treated as proceeds of disposition of property of another prescribed class that includes a vessel owned by the corporation. R.S.O. 1970, c. 91, s. 32 (16).

(13) Where a separate prescribed class has been constituted either under this Act or the *Canadian Vessel Construction Assistance Act* (Canada) by virtue of the conversion of a vessel owned by a corporation and the vessel is disposed of by the corporation, if no election is made under clause *b* of subsection 11, the separate prescribed class constituted by virtue of the conversion shall be deemed to have been transferred to the class in which the vessel was included immediately before the disposition thereof. R.S.O. 1970, c. 91, s. 32 (17).

(14) Notwithstanding any other provision of this Act, where a corporation has,

- (a) expended an amount as described in subclause iii of clause *c* of subsection 3; or
- (b) made an election under clause *b* of subsection 11 with respect to a vessel and the proceeds of disposition of the vessel have been used before 1974 for replacement under conditions satisfactory to the Minister,

such reassessments of tax, interest or penalties shall be made as are necessary to give effect to subsections 3 and 11. R.S.O. 1970, c. 91, s. 32 (18).

(15) All or any part of a deposit made under subclause ii of clause *a* of subsection 11 or under the *Canadian Vessel Construction Assistance Act* (Canada) may be paid out to or on behalf of any corporation which, under conditions satisfactory to the Minister and as a replacement for the vessel disposed of, acquires a vessel before 1974,

- (a) that was constructed in Canada and is registered in Canada or is registered under conditions satisfactory to the Minister in any country or territory to which the British Commonwealth Merchant Shipping Agreement (signed at London on December 10, 1931) applies; and

- (b) in respect of the capital cost of which no allowance has been made to any other corporation under this Act or the *Canadian Vessel Construction Assistance Act* (Canada),

or incurs any conversion cost with respect to a vessel owned by the corporation that is registered in Canada or is registered under conditions satisfactory to the Minister in any country or territory to which the said British Commonwealth Merchant Shipping Agreement applies, but the ratio of the amount paid out to the amount of the deposit shall not exceed the ratio of the capital cost to the corporation of the vessel or the conversion cost to the corporation of the vessel, as the case may be, to the proceeds of disposition of the vessel disposed of; and any deposit or part of a deposit not so paid out before 1974 or not paid out pursuant to subsection 16 shall be paid to the Treasurer of Ontario. R.S.O. 1970, c. 91, s. 32 (19).

Idem

(16) Notwithstanding any other provision of this section, where a deposit was made by a corporation under subclause ii of clause *a* of subsection 11 and the proceeds of disposition in respect of which the deposit was made are not used by any corporation before 1974 under conditions satisfactory to the Minister as a replacement for the vessel disposed of,

- (a) to acquire a vessel described in clause *a* or *b* of subsection 15; or
- (b) to incur any conversion cost with respect to a vessel owned by that corporation that is registered in Canada or is registered under conditions satisfactory to the Minister in any country or territory to which the British Commonwealth Merchant Shipping Agreement applies,

the Minister may refund to the corporation the deposit, or the part thereof not paid out to the corporation under subsection 15, as the case may be, in which case there shall be added, in computing the income of the corporation for the fiscal year of the corporation in which the vessel was disposed of, that proportion of the amount that would have been included in computing the income of the corporation for the year by virtue of this Part had the deposit not been made under subclause ii of clause *a* of subsection 11 that the portion of the proceeds of disposition not so used before 1974 as such a replacement is of the proceeds of disposition; and notwithstanding any other provision of this Act such reassessments of tax, interest or penalties shall be made as are necessary to give effect to this subsection. R.S.O. 1970, c. 91, s. 32 (20).

(17) In this section and any regulations made under ^{Interpre-} clause *a* of subsection 1 of section 24, ^{tation}

- (a) "conversion", in respect of a vessel, means a conversion or major alteration in Canada by a corporation in accordance with plans approved in writing by the Minister of Industry, Trade and Commerce for purposes of the *Income Tax Act* (Canada) and by the Minister, and "conversion cost" means the cost of a conversion as determined by the Minister; <sup>1970-71,
c. 63 (Can.)</sup>
- (b) "depreciable property" of a corporation as of any time in a fiscal year means property in respect of which the corporation has been allowed, or is entitled to, a deduction under regulations made under clause *a* of subsection 1 of section 24 in computing income for that or a previous fiscal year;
- (c) "disposition of property" includes any transaction or event entitling a corporation to proceeds of disposition of property;
- (d) "proceeds of disposition" of property includes,
 - (i) the sale price of property that has been sold,
 - (ii) compensation for property unlawfully taken,
 - (iii) compensation for property destroyed and any amount payable under a policy of insurance in respect of loss or destruction of property,
 - (iv) compensation for property taken under statutory authority or the sale price of property sold to a person by whom notice of an intention to take it under statutory authority was given,
 - (v) compensation for property injuriously affected, whether lawfully or unlawfully or under statutory authority or otherwise,
 - (vi) compensation for property damaged and any amount payable under a policy of insurance in respect of damage to property, except to the extent that such compensation or amount, as the case may be, has within a reasonable time after the damage been expended on repairing the damage,

- (vii) an amount by which the liability of a corporation to a mortgagee is reduced as a result of the sale of mortgaged property under a provision of the mortgage, plus any amount received by the corporation out of the proceeds of such sale, and
- (viii) any amount included in computing a corporation's proceeds of disposition of the property by virtue of clause *c* of section 70;
- (e) "total depreciation" allowed to a corporation before any time for property of a prescribed class means the aggregate of all amounts allowed to the corporation in respect of property of that class under regulations made under clause *a* of subsection 1 of section 24 in computing income for fiscal years before that time;
- (f) "undepreciated capital cost" to a corporation of depreciable property of a prescribed class as of any time means the capital cost to the corporation of depreciable property of that class acquired before that time minus the aggregate of,
 - (i) the total depreciation allowed to the corporation for property of that class before that time,
 - (ii) for each disposition before that time of property of the corporation of that class, the least of,
 - (A) the proceeds of disposition of the property,
 - (B) the capital cost to the corporation of the property, and
 - (C) the undepreciated capital cost to the corporation of property of that class immediately before the disposition,
 - (iii) each amount by which the undepreciated capital cost to the corporation of depreciable property of that class as of the end of a previous year was reduced by virtue of subsection 2, and
 - (iv) where the property of that class was acquired by the corporation for the purpose of gaining or producing income from a mine and the cor-

poration so elects in prescribed manner and within a prescribed time in respect of that property, an amount equal to that portion of the income derived from the operation of the mine that is, by virtue of the provisions of the *Corporations Tax Application Rules, 1972* relating to income from the operation of new mines, not included in computing income of the corporation or any other corporation; and

- (g) "vessel" means a vessel as defined in the *Canada Shipping Act* (Canada). R.S.O. 1970, c. 91, s. 32 (4). R.S.C. 1970, c. S-9

18.—(1) Where, as a result of a transaction occurring after 1971, an amount has become payable to a corporation in a fiscal year in respect of a business carried on or formerly carried on by the corporation and the consideration given by the corporation therefor was such that, if any payment had been made by the corporation after 1971 for that consideration, the payment would have been an eligible capital expenditure of the corporation in respect of the business, there shall be included in computing the corporation's income for the year from the business the amount, if any, by which one-half of the amount so payable, which one-half is hereafter in this section referred to as an "eligible capital amount" in respect of the business, exceeds the cumulative eligible capital of the corporation in respect of the business immediately before the amount so payable became payable to the corporation. Sale of goodwill and other "nothings"

(2) Where any amount is, by any provision of this Act, deemed to be a corporation's proceeds of disposition of any property disposed of by the corporation at any time, for the purposes of subsection 1 that amount shall be deemed to have become payable to it at that time. Amount deemed payable

(3) Where a corporation has, during a fiscal year but after the latest time at which any amount payable to the corporation, in respect of which the corporation is required by subsection 1 to include an amount in computing its income for the year from a business, became payable to the corporation, made or incurred outlays or expenses that are eligible capital expenditures in respect of the business, notwithstanding subsection 1 and clause *a* of subsection 4, the following rules apply, Subsequent outlays or expenses

- (a) if the aggregate of the amounts that would, according to the terms of subsection 1, be included in computing the income of a corporation for the year from the business is equal to or exceeds its

cumulative eligible capital in respect of the business at the end of the year,

- (i) the amount to be included in computing the corporation's income for the year from the business under subsection 1 is that aggregate minus the amount that would otherwise be its cumulative eligible capital in respect of the business at the end of the year, and
 - (ii) the corporation's cumulative eligible capital in respect of the business at the end of the year is nil; and
- (b) if the aggregate of amounts that would, according to the terms of subsection 1, be included in computing the corporation's income for the year from the business is less than its cumulative eligible capital in respect of the business at the end of the year,
- (i) no amounts shall be included in computing the corporation's income for the year from the business under subsection 1, and
 - (ii) the corporation's cumulative eligible capital in respect of the business at the end of the year is the amount thereof otherwise determined minus that aggregate.

Inter-
pretation

(4) In this section,

- (a) "cumulative eligible capital" of a corporation at any time in respect of a business means,
 - (i) one-half of the aggregate of the eligible capital expenditures in respect of the business made or incurred by the corporation before that time,

minus,

- (ii) the aggregate of,
 - (A) all amounts each of which is an amount in respect of any fiscal year of the corporation ending before that time, equal to the amount deducted under clause b of subsection 1 of section 24 in computing the income of the corporation for that year from the business,

(B) for each eligible capital amount in respect of the business that became payable to the corporation before that time, the lesser of,

1. the eligible capital amount, and
2. the cumulative eligible capital of the corporation in respect of the business immediately before the disposition as a result of which the eligible capital amount became payable, and

(C) all amounts by which the cumulative eligible capital of the corporation in respect of the business at the end of any fiscal year of the corporation ending before that time was reduced by virtue of subsection 3; and

(b) “eligible capital expenditure” of a corporation in respect of a business means the portion of any outlay or expense made or incurred by it, as a result of a transaction occurring after 1971, on account of capital for the purpose of gaining or producing income from the business, other than any such outlay or expense,

- (i) in respect of which any amount is or would be, but for any provision of this Act limiting the quantum of any deduction, deductible, otherwise than under clause *b* of subsection 1 of section 24, in computing the income of the corporation from the business, or in respect of which any amount is, by virtue of any provision of this Act other than clause *b* of subsection 1 of section 22, not deductible in computing such income,
- (ii) made or incurred for the purpose of gaining or producing income that is exempt income, or
- (iii) that is the cost of, or any part of the cost of,

(A) tangible property of the corporation,

(B) intangible property that is depreciable property of the corporation,

- (C) property in respect of which any deduction, otherwise than under clause *b* of subsection 1 of section 24, is permitted in computing its income from the business or would be so permitted if its income from the business were sufficient for the purpose, or
- (D) an interest in, or right to acquire, any property described in any of sub-clauses A to C,

but, for greater certainty and without restricting the generality of the foregoing, does not include any portion of,

- (iv) any amount paid or payable, as the case may be, to any creditor of the corporation as, on account or in lieu of payment of any debt or as or on account of the redemption, cancellation or purchase of any bond or debenture,
- (v) any amount paid or payable, as the case may be, to a person as a shareholder of the corporation, or
- (vi) any amount that is the cost of, or any part of the cost of,
 - (A) an interest in a trust,
 - (B) an interest in a partnership,
 - (C) a share, bond, debenture, mortgage, hypothec, note, bill or other similar property, or
 - (D) an interest in, or right to acquire, any property described in any of sub-subclauses A to C. *New.*

Appropriation of property to shareholder

19.—(1) Where in a fiscal year,

- (a) a payment has been made by a corporation to a shareholder otherwise than pursuant to a *bona fide* business transaction;
- (b) funds or property of a corporation have been appropriated in any manner whatever to, or for the benefit of, a shareholder; or

- (c) a benefit or advantage has been conferred on a shareholder by a corporation,

otherwise than,

- (d) on the reduction of capital, the redemption of shares or the winding-up, discontinuance or reorganization of its business, or otherwise by way of a transaction to which section 78 or 82 of this Act or Part II of the *Income Tax Act* (Canada) applies;

1970-71,
c. 63 (Can.)

- (e) by the payment of a dividend; or

- (f) by conferring on all holders of common shares of the capital stock of the corporation a right to buy additional common shares thereof,

the amount or value thereof shall be included in computing the income of the corporation that is a shareholder therein for the year. R.S.O. 1970, c. 91, s. 20 (1) (a).

(2) Where a corporation has in a fiscal year made a loan ^{Loan to shareholder} to a shareholder, the amount thereof shall be included in computing the income of the shareholder for the year unless,

- (a) the loan was made,
- (i) in the ordinary course of its business and the lending of money was part of its ordinary business,
 - (ii) to an officer or servant of the corporation to enable or assist him to purchase or erect a dwelling house for his own occupation,
 - (iii) to an officer or servant of the corporation to enable or assist him to purchase from the corporation fully paid shares of the corporation to be held by him for his own benefit, or
 - (iv) to an officer or servant of the corporation to enable or assist him to purchase an automobile to be used by him in the performance of the duties of his office or employment,

and *bona fide* arrangements were made at the time the loan was made for repayment thereof within a reasonable time; or

- (b) the loan was repaid within one year from the end of the fiscal year of the corporation in which it was made and it is established, by subsequent events or otherwise, that the repayment was not made as a part of a series of loans and repayments,

and, where the shareholder is a corporation, the amount so included in computing its income for the year shall be deemed to have been received by it as a dividend.

Interest
on income
bonds

(3) An annual or other periodic amount paid by a corporation resident in Canada to another corporation in respect of an income bond or income debenture shall be deemed to have been paid by the paying corporation and received by the receiving corporation as a dividend on the share of the capital stock of the paying corporation unless it is entitled to deduct the amount so paid in computing its income.

Idem

(4) An annual or other periodic amount paid by a corporation not resident in Canada to another corporation in respect of an income bond or income debenture shall be deemed to have been received by the receiving corporation as a dividend unless the amount so paid was, under the laws of the country in which the paying corporation was resident, deductible in computing the amount for the fiscal year on which the corporation was liable to pay income or profits tax imposed by the government of that country.

Application

(5) For greater certainty, subsections 1 and 2 are applicable in computing the income of a shareholder for the purposes of this Part whether or not the corporation was resident or carried on business in Canada. R.S.O. 1970, c. 91, s. 20 (4).

Income and
capital
combined

20.—(1) Where a payment under a contract or other arrangement can reasonably be regarded as being in part a payment of interest or other payment of an income nature and in part a payment of a capital nature, the part of the payment that can reasonably be regarded as a payment of interest or other payment of an income nature shall, irrespective of when the contract or arrangement was made or the form or legal effect thereof, be included in computing the recipient's income from property. R.S.O. 1970, c. 91, s. 19 (1).

Obligation
issued at
discount

1970-71,
c. 63 (Can.)

(2) Where, in the case of a bond, debenture, bill, note, mortgage, hypothec or similar obligation issued after December 20, 1960 and before June 18, 1971 by a person exempt from tax under section 149 of the *Income Tax Act* (Canada), a non-resident person not carrying on business in Canada, or a government, municipality or municipal or other public body performing a function of government,

- (a) the obligation was issued for an amount that is less than the principal amount thereof;
- (b) the interest stipulated to be payable on the obligation, expressed in terms of an annual rate on,
 - (i) the principal amount thereof, if no amount is payable on account of the principal amount before the maturity of the obligation, or
 - (ii) the amount outstanding from time to time as or on account of the principal amount thereof, in any other case,

is less than 5 per cent; and

- (c) the yield from the obligation, expressed in terms of an annual rate on the amount for which the obligation was issued, which annual rate shall, if the terms of the obligation or any agreement relating thereto conferred upon the holder thereof a right to demand payment of the principal amount of the obligation or the amount outstanding as or on account of the principal amount thereof, as the case may be, before the maturity of the obligation, be calculated on the basis of the yield that produces the highest annual rate obtainable either on the maturity of the obligation or conditional upon the exercise of any such right, exceeds the annual rate determined under clause *b* by more than one-third thereof,

the amount by which the principal amount of the obligation exceeds the amount for which the obligation was issued shall be included in computing the income of the first owner of the obligation who is a resident of Canada and is not a person exempt from tax under section 149 of the *Income Tax Act* (Canada) or a government, for the fiscal year of the owner of the obligation in which it became the owner thereof. R.S.O. 1970, c. 91, s. 19 (2), *amended*.^{1970-71, c. 63 (Can.)}

(3) Where, in the case of a bond, debenture, bill, note,^{Idem} mortgage, hypothec or similar obligation issued after June 18, 1971 by a person exempt from tax under section 149 of the *Income Tax Act* (Canada), a non-resident person not carrying on business in Canada, or a government, municipality or municipal or other public body performing a function of government,

- (a) the obligation was issued for an amount that is less than the principal amount thereof; and

(b) the yield from the obligation, expressed in terms of an annual rate on the amount for which the obligation was issued, which annual rate shall, if the terms of the obligation or any agreement relating thereto conferred upon the holder thereof a right to demand payment of the principal amount of the obligation or the amount outstanding as or on account of the principal amount thereof, as the case may be, before the maturity of the obligation, be calculated on the basis of the yield that produces the highest annual rate obtainable either on the maturity of the obligation or conditional upon the exercise of any such right, exceeds four-thirds of the interest stipulated to be payable on the obligation, expressed in terms of an annual rate on,

(i) the principal amount thereof, if no amount is payable on account of the principal amount before the maturity of the obligation, or

(ii) the amount outstanding from time to time as or on account of the principal amount thereof, in any other case,

the amount by which the principal amount of the obligation exceeds the amount for which the obligation was issued shall be included in computing the income of the first owner of the obligation who is resident of Canada and is not a person exempt from tax under section 149 of the *Income Tax Act* (Canada) or a government, for the fiscal year of the owner of the obligation in which it became the owner thereof. *New.*

1970-71,
c. 63 (Can.)

Application
of subs. (1)

(4) Subsection 1 does not apply to any amount received by a corporation in a fiscal year,

(a) as an annuity payment;

(b) as a refund of premiums or contributions paid by the holder of a life annuity contract, as defined by regulation, upon the death of such holder; or

(c) in satisfaction of the rights of the corporation under a life annuity contract, as defined by regulation, that was entered into before June 14, 1963 except to the extent that the amount so received, exceeds the aggregate of,

(i) the value of its rights under the contract on the second anniversary date of the contract to occur after October 22, 1968, and

- (ii) the aggregate of premiums paid by the corporation under the contract after the said second anniversary date. R.S.O. 1970, c. 91, s. 19 (5).

(5) Subsection 1 does not apply in any case where sub-Idem section 2 or 3 applies. R.S.O. 1970, c. 91, s. 19 (4).

21.—(1) Where a corporation resident in Canada has loaned ^{Loan to non-resident person} money to a non-resident person and the loan has remained outstanding for one year or longer without interest at a reasonable rate having been included in computing the lender's income, interest thereon, computed at 5 per cent per annum for the fiscal year or part of the year during which the loan was outstanding, shall, for the purpose of computing the lender's income, be deemed to have been received by the lender on the last day of each fiscal year during all or part of which the loan has been outstanding.

(2) Subsection 1 does not apply if the loan was made to ^{Exception} a subsidiary controlled corporation and it is established that the money that was loaned was used in the subsidiary corporation's business for the purpose of gaining or producing income. R.S.O. 1970, c. 91, s. 30.

Deductions

22.—(1) In computing the income of a corporation from a ^{General limitations} business or property no deduction shall be made in respect of,

- (a) an outlay or expense except to the extent that it was ^{General limitation} made or incurred by the corporation for the purpose of gaining or producing income from the business or property;
- (b) an outlay, loss or replacement of capital, a payment ^{Capital outlay or loss} on account of capital or an allowance in respect of depreciation, obsolescence or depletion except as expressly permitted by this Part;
- (c) an outlay or expense to the extent that it may ^{Limitation re exempt income} reasonably be regarded as having been made or incurred for the purpose of gaining or producing exempt income or in connection with property the income from which would be exempt;
- (d) the annual value of property except rent for prop- ^{Annual value of property} erty leased by the corporation for use in its business;

- Reserves,
etc.
- (e) an amount transferred or credited to a reserve, contingent account or sinking fund except as expressly permitted by this Part;
- Payments on
discounted
bonds
- (f) an amount paid or payable as or on account of the principal amount of any obligation described in clause *f* of subsection 1 of section 24 except as expressly permitted by that clause;
- Payments on
income
bonds
- (g) an amount paid by a corporation as interest or otherwise to holders of its income bonds or income debentures unless the bonds or debentures have been issued or the income provisions thereof have been adopted since 1930,
- (i) to afford relief to the debtor from financial difficulties, and
- (ii) in place of or as an amendment to bonds or debentures that at the end of 1930 provided unconditionally for a fixed rate of interest;
- Limitation re
employer's
contribution
under
supple-
mentary
unemploy-
ment benefit
plan
- (h) an amount paid by a corporation to a trustee under a supplementary unemployment benefit plan except as expressly permitted by section 119;
- Limitation re
employer's
contribution
under
deferred
profit
sharing
plan
- (i) an amount paid by a corporation to a trustee under a deferred profit sharing plan except as expressly permitted by section 120;
- Limitations
re employer's
contribution
under profit
sharing plan
- (j) an amount paid by a corporation to a trustee under a profit sharing plan that is not,
- (i) an employees profit sharing plan,
- (ii) a deferred profit sharing plan, or
- (iii) a registered pension fund or plan; or
- Use of
recreational
facilities
and club
dues
- (k) an outlay or expense made or incurred by the corporation after 1971,
- (i) for the use or maintenance of property that is a yacht, a camp, a lodge or a golf course or facility, unless the corporation made or incurred the outlay or expense in the ordinary course of its business of providing the property for hire or reward, or
- (ii) as membership fees or dues, whether initiation fees or otherwise, in any club the main purpose of which is to provide dining, recreational or sporting facilities for its members.

(l) the amount of a management or administration ^{Management fee} fee or charge paid or credited, or deemed to be paid or credited, to a non-resident person to the extent that such amount is subjected to taxation under paragraph *a* of subsection 1 of section 212 ^{1970-71, c. 63 (Can.)} of the *Income Tax Act* (Canada);

(m) where a corporation has agreed to sell or issue ^{Special Provision} shares of the capital stock of the corporation or of a corporation with which it does not deal at arm's length to an employee of the corporation or of a corporation with which it does not deal at arm's length, the income for a fiscal year of the corporation or of a corporation with which it does not deal at arm's length shall be deemed to be not less than its income for the fiscal year would have been if a benefit had not been conferred on the employee by the sale or issue of the shares to him or to a person in whom his rights under the agreement have become vested. R.S.O. 1970, c. 91, s. 24.

(2) Notwithstanding clause *c* of subsection 1 of section 24, ^{Limitation re certain interest and property taxes on land} in computing the income of the corporation for a fiscal year from a business or property, no deduction shall be made in respect of any amount paid or payable by the corporation in the year and after 1971 as, on account or in lieu of payment of, or in satisfaction of,

- (a) interest on borrowed money used to acquire land, or on an amount payable by the corporation for land; or
- (b) property taxes, not including income or profits taxes or taxes computed by reference to the transfer of property, paid or payable by the corporation in respect of land to a province or a Canadian municipality,

if, having regard to all the circumstances, including the cost to the corporation of the land in relation to its gross revenue, if any, therefrom for that or any previous year, the land cannot reasonably be considered to have been, in that year,

- (c) included in the inventory of a business carried on by the corporation;
- (d) otherwise used in, or held in the course of, carrying on a business carried on by the corporation; or

- (e) held primarily for the purpose of gaining or producing income of the corporation from the land for that year,

except to the extent that the corporation's gross revenue, if any, from the land for that year exceeds the aggregate of all other amounts deducted in computing its income from the land for that year.

Meaning of
"land" in
subs. 2

- (3) In subsection 2, "land" does not include,

- (a) any property that is a building or other depreciable property affixed to land;
- (b) the land subjacent to any property described in clause *a*; or
- (c) such land immediately contiguous to the land described in clause *b* as may reasonably be considered to be used in connection with any property described in clause *a*. *New*.

Limitation re
deduction of
interest by
certain
corporations

(4) Notwithstanding any other provision of this Act, in computing the income for a fiscal year of a corporation resident in Canada from a business or property, no deduction shall be made in respect of that proportion of any amount otherwise deductible in computing its income for the year in respect of interest paid or payable by it on outstanding debts to specified non-residents that,

- (a) the amount, if any, by which,
 - (i) the greatest amount that the corporation's outstanding debts to specified non-residents was at any time in the year,

exceeds,

- (ii) three times the aggregate of,

- (A) the corporation's paid-up capital limit within the meaning of subsection 1 of section 83 at the commencement of the year,
- (B) the amount that the corporation's designated surplus would be immediately after the commencement of the year, if control of the corporation, within the meaning of Part VII of

the *Income Tax Act* (Canada), had been <sup>1970-71,
c. 63 (Can.)</sup> acquired by another corporation at that time,

- (C) the corporation's tax-paid undistributed surplus on hand at the commencement of the year,
- (D) the corporation's 1971 capital surplus on hand at the commencement of the year, and
- (E) the corporation's capital dividend account, within the meaning of subsection 1 of section 83 immediately after the commencement of the year,

is of,

- (b) the amount determined under subclause i of clause a in respect of the corporation for the year. R.S.O. 1970, c. 91, s. 22.

(5) In subsection 4, "outstanding debts to specified non-residents" of a corporation at any particular time in a fiscal year means the aggregate of amounts each of which is an amount outstanding at that time as or on account of a debt or other obligation to pay an amount, ^{Meaning of certain expressions in subs. 4}

- (a) that was payable by the corporation to a person who was, at any time in the year,
 - (i) a shareholder of the corporation who, either alone or together with persons with whom the shareholder was not dealing at arm's length, owned 25 per cent or more of the issued shares of any class of the corporation and who was,
 - (A) a person not resident in Canada, or
 - (B) a non-resident-owned investment corporation, or
 - (ii) a person described in sub-subclause A or B of subclause i who was not dealing at arm's length with a shareholder described in subclause i, and

- (b) on which any amount in respect of interest paid or payable by the corporation is or would be, but

for subsection 4, deductible in computing the corporation's income for the year.

Loan made
on condition

(6) Where any loan is made by a corporation, in this subsection referred to as the "first lender", to another person on condition that a loan be made by any person, in this subsection referred to as the "subsequent lender", to a corporation having a permanent establishment in Canada, for the purposes of subsections 4 and 5 the lesser of,

- (a) the amount of the loan so made by the first lender to the other person; and
- (b) the amount of the loan so made by the subsequent lender to the corporation having a permanent establishment in Canada,

shall be deemed to be a debt incurred by the corporation having a permanent establishment in Canada to the first lender.

Limitation on
application
of s. 25 where
subs. 4
applicable

(7) Where,

- (a) section 25 is applicable in respect of an amount or a part of an amount specified by a corporation resident in Canada in its election under that section that, but for that section, would have been deductible in computing its income for a fiscal year;
- (b) a portion of the amount or of the part of the amount described in clause *a* may reasonably be considered to be an amount that, but for section 25, would have been deductible in computing the income of the corporation for the year in respect of interest paid or payable by it on outstanding debts to specified non-residents; and
- (c) subsection 4 is or would be, if this Act were read without reference to section 25, applicable in computing the income of the corporation for the year,

notwithstanding section 25, that proportion of the portion described in clause *b* that, but for this subsection, would,

- (d) be added by virtue of section 25 to the capital cost to the corporation of depreciable property acquired by it; or
- (e) be deemed by section 25 to be exploration, prospecting and development expenses incurred by it in the year,

as the case may be, that the amount determined under clause *a* of subsection 4 in respect of the corporation for the year is of the amount determined under clause *b* of subsection 4 in respect of the corporation for the year shall not be so added or be so deemed, as the case may be.

23. In computing income, no deductions shall be made in respect of an otherwise deductible outlay or expense of a corporation for advertising space in an issue of a non-Canadian newspaper or periodical dated after the 31st day of December, 1965, for an advertisement directed primarily to a market in Canada if such outlay or expense is not deductible in computing its income under Part I of the *Income Tax Act* (Canada) pursuant to section 19 of that Act. R.S.O. 1970, c. 91, s. 24 (3), *amended*. Limitation re advertising expense 1970-71, c. 63 (Can.)

24.—(1) Notwithstanding clauses *a* and *b* of subsection 1 of section 22, in computing a corporation's income for a fiscal year from a business or property, there may be deducted such of the following amounts as are wholly applicable to that source or such part of the following amounts as may reasonably be regarded as applicable thereto, Deductions permitted in computing income from business or property

- (a) such part of the capital cost to the corporation of property, or such amount in respect of the capital cost to the corporation of property, if any, as is allowed by regulation; Capital cost of property
- (b) such amount as the corporation may claim in respect of any business, not exceeding 10 per cent of its cumulative eligible capital in respect of the business at the end of the year; Cumulative eligible capital amount
- (c) an amount paid in the year or payable in respect of the fiscal year, depending upon the method regularly followed by the corporation in computing its income, pursuant to a legal obligation to pay interest on, Interest
 - (i) borrowed money used for the purpose of earning income from a business or property, other than borrowed money used to acquire property the income from which would be exempt or to acquire a life insurance policy,
 - (ii) an amount payable for property acquired for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, other than property the income from which would be exempt or property that is an interest in a life insurance policy, or

(iii) subject to the approval of the Minister, an amount paid to the corporation under,

(A) an *Appropriation Act* (Canada) for the purpose of advancing or sustaining the technological capability of Canadian manufacturing or other industry, or

(B) the *Northern Mineral Exploration Assistance Regulations* made under an *Appropriation Act* (Canada),

or a reasonable amount in respect thereof, whichever is the lesser;

Compound
interest

(d) an amount paid in the fiscal year pursuant to a legal obligation to pay interest on an amount that would be deductible under clause *c* if it were paid in the fiscal year or payable in respect of the fiscal year;

Expense of
issuing
shares or
borrowing
money

(e) an expense incurred in the fiscal year,

(i) in the course of issuing or selling shares of the capital stock of the corporation, or

(ii) in the course of borrowing money used by the corporation for the purpose of earning income from a business or property, other than money used by the corporation for the purpose of acquiring property the income from which would be exempt,

but not including any amount in respect of,

(iii) a commission or bonus paid or payable to a person to whom the shares were issued or sold or from whom the money was borrowed, or for or on account of services rendered by a person as a salesman, agent or dealer in securities in the course of issuing or selling the shares or borrowing the money, or

(iv) an amount paid or payable as or on account of the principal amount of the indebtedness incurred in the course of borrowing the money, or as or on account of interest;

Discount
on certain
obligations

(f) an amount paid in the year in satisfaction of the principal amount of any bond, debenture, bill, note, mortgage, hypothec or similar obligation issued by

the corporation after June 18, 1971 on which interest was stipulated to be payable, to the extent that the amount so paid does not exceed,

- (i) in any case where the obligation was issued for an amount not less than 97 per cent of the principal amount thereof, and the yield from the obligation, expressed in terms of an annual rate on the amount for which the obligation was issued, which annual rate shall, if the terms of the obligation or any agreement relating thereto conferred upon the holder thereof a right to demand payment of the principal amount of the obligation or the amount outstanding as or on account of the principal amount thereof, as the case may be, before the maturity of the obligation, be calculated on the basis of the yield that produces the highest annual rate obtainable either on the maturity of the obligation or conditional upon the exercise of any such right, does not exceed four-thirds of the interest stipulated to be payable on the obligation, expressed in terms of an annual rate on,

- (A) the principal amount thereof, if no amount is payable on account of the principal amount before the maturity of the obligation, or

- (B) the amount outstanding from time to time as or on account of the principal amount thereof, in any other case,

the amount by which the lesser of the principal amount of the obligation and the amount so paid in satisfaction of the principal amount thereof exceeds the amount for which the obligation was issued, and

- (ii) in any other case, one-half of the amount by which the lesser of the principal amount of the obligation and the amount so paid in satisfaction of the principal amount thereof exceeds the amount for which the obligation was issued;

- (g) an amount payable in the year as a fee for services rendered by a person as a registrar of or agent for the transfer of shares of the capital stock of the ^{Share transfer and other fees}

corporation or as an agent for the remittance to shareholders of the corporation of dividends declared by it;

- | | |
|--|---|
| Idem | (h) an amount payable in the year as a fee to a stock exchange for the listing of shares of the capital stock of the corporation; |
| Idem | (i) an expense incurred in the year in the course of printing and issuing a financial report to shareholders of the corporation or to any other person entitled by law to receive such report; |
| Certification
fee paid to
bank

R.S.C. 1970,
c. B-1 | (j) an amount payable by the corporation in the year as a fee to a bank to which the <i>Bank Act</i> (Canada) or the <i>Quebec Savings Banks Act</i> applies for the certification of a non-interest-bearing post-dated bill drawn by the corporation on the bank and payable not more than 90 days from the date of the certification; |
| Sale of
bill | (k) where a bill described in clause <i>j</i> that was drawn by the corporation has been sold by the corporation in the fiscal year, the amount, if any, by which the principal amount of the bill exceeds the consideration paid by the purchaser to the corporation for the bill so sold; |
| Repayment
of loan by
shareholder | (l) such part of any loan repaid by the corporation in the fiscal year as was by subsection 2 of section 19 required to be included in computing the income of the corporation for a previous year, except to the extent that the amount of the loan was deductible from the corporation's income for the purpose of computing its taxable income for that previous year, if it is established by subsequent events or otherwise that the repayment was not made as part of a series of loans and repayments; |
| Combined
income and
capital | (m) such part of a payment,

(i) repaying borrowed money used for the purpose of earning income from a business or property, other than borrowed money used to acquire property the income from which would be exempt, or

(ii) for property acquired for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from |

a business, other than property the income from which would be exempt,

made by the corporation in the fiscal year as is by subsection 1 of section 20 required to be included in computing the recipient's income for a fiscal year;

- (n) a reasonable amount as a reserve for,
 - (i) doubtful debts that have been included in computing the income of the corporation for that fiscal year or a previous fiscal year, and
 - (ii) doubtful debts arising from loans made in the ordinary course of business by a corporation part of whose ordinary business was the lending of money;
- (o) subject to subsection 7, where amounts described in clause *a* of subsection 1 of section 16 have been included in computing the corporation's income from a business for the fiscal year or a previous fiscal year, a reasonable amount as a reserve in respect of,
 - (i) goods that it is reasonably anticipated will have to be delivered after the end the year,
 - (ii) services that it is reasonably anticipated will have to be rendered after the end of the year,
 - (iii) periods for which rent or other amounts for the possession or use of land or chattels have been paid in advance, or
 - (iv) repayments under arrangements or understandings of the class described in subclause ii of clause *a* of subsection 1 of section 16 that it is reasonably anticipated will have to be made after the end of the year on the return or resale to the corporation of articles other than bottles;
- (p) where an amount has been included in computing the corporation's income from the business for the fiscal year or for a previous fiscal year in respect of property sold in the course of the business and that amount or a part thereof is not receivable,
 - (i) where the property sold is property other than land, until a day that is,

Reserve for
doubtful
debts

Reserve in
respect of
certain
goods and
services

Reserve for
amount not
receivable
until later
year

(A) more than 2 years after the day on which the property was sold,

and

(B) after the end of the fiscal year, or

(ii) where the property sold is land, until a day that is after the end of the fiscal year,

a reasonable amount as a reserve in respect of such part of the amount so included in computing the income as may reasonably be regarded as a portion of the profit from the sale;

Reserve for
quadrennial
survey

R.S.C. 1970,
c. S-9

(q) such amount as may be prescribed as a reserve for expenses to be incurred by the corporation by reason of quadrennial or other special surveys required under the *Canada Shipping Act* (Canada), or the regulations thereunder, or under the rules of any society or association for the classification and registry of shipping approved by the Minister of Transport for the purposes of the *Canada Shipping Act* (Canada);

Bad debts

(r) the aggregate of debts owing to the corporation,

(i) that are established by the corporation to have become bad debts in the fiscal year, and

(ii) that have, except in the case of debts arising from loans made in the ordinary course of business by a corporation part of whose ordinary business was the lending of money, been included in computing the income of the corporation for the fiscal year or a previous fiscal year;

Employer's
contribution
to pension
fund

(s) an amount paid by the corporation in the fiscal year or within 120 days from the end of the fiscal year to or under a registered pension fund or plan in respect of services rendered by employees of the corporation in the fiscal year, subject, however, as follows:

(i) in any case where the amount so paid is the aggregate of amounts each of which is identifiable as a specified amount in respect of an individual employee of the corporation, the amount deductible under this clause in respect of any one such individual employee is the lesser of the amount so specified in respect of that employee and \$2,500, and

- (ii) in any other case, the amount deductible under this clause is the lesser of the amount so paid and an amount determined in prescribed manner, not exceeding, however, \$2,500 multiplied by the number of employees of the corporation in respect of whom the amount so paid by the corporation was paid by it,

plus such amount as may be deducted as a special payment under clause *u*;

- (*t*) where a registered pension fund or plan contains ^{Idem} a provision under which the corporation may provide superannuation or pension benefits for an employee or former employee of the corporation by making a lump sum payment to or under the fund or plan in the fiscal year in which the employee or former employee,

- (i) becomes eligible to retire,

- (ii) retires or otherwise ceases to be employed by the corporation, or

- (iii) reaches an age at which the superannuation or pension benefits so provided for become payable or commence to be payable to him,

an amount paid by the corporation in the fiscal year or within 60 days from the end of the fiscal year pursuant thereto as the lump sum in respect of an employee or former employee who, in the fiscal year, became eligible to retire, retired or otherwise ceased to be employed by the corporation or reached the age referred to in subclause iii, except to the extent that it is deductible under clause *s*;

- (*u*) where the corporation is an employer, the amount ^{Employer's special contribution} of a special payment made by it in the fiscal year on account of an employees' superannuation or pension fund or plan in respect of past services of employees pursuant to a recommendation by a qualified actuary in whose opinion the resources of the fund or plan were required to be augmented by an amount not less than the amount of the special payment to ensure that all the obligations of the fund or plan to the employees may be discharged in full, if the payment was made so that it is irrevocably vested in or for the fund or plan and the payment has been

approved by the Minister, and for greater certainty and without restricting the generality of this clause, it is hereby declared that this clause is applicable where the resources of a fund or plan were required to be augmented by reason of an increase in the superannuation or pension benefits payable out of or under the fund or plan;

Scientific research	(v) such amount in respect of expenditures on scientific research as is permitted by section 39;
Patronage dividends	(w) such amounts in respect of payments made by the corporation pursuant to allocations in proportion to patronage as are permitted by section 112;
Mining taxes	(x) such amount as is allowed by regulation in respect of taxes on income for the fiscal year from mining operations;
Employer's contribution under profit sharing plan	(y) an amount paid by a corporation to a trustee in trust for employees of such corporation or of a corporation with which such corporation does not deal at arm's length, under an employees profit sharing plan as permitted by section 118;
Employer's contribution under registered supplementary unemployment benefit plan	(z) an amount paid by the corporation to a trustee under a registered supplementary unemployment benefit plan as permitted by section 119;
Employer's contribution under deferred profit sharing plan	(aa) an amount paid by the corporation to a trustee under a deferred profit sharing plan as permitted by subsection 5 of section 120;
Cancellation of lease	(bb) an amount that would not otherwise be deductible, paid by the corporation in the fiscal year to a person with whom it was dealing at arm's length for the cancellation of a lease of property of the corporation leased by it to that person;
Landscaping of grounds	(cc) an amount paid by the corporation in the fiscal year for the landscaping of grounds around a building or other structure of the corporation that is used by it primarily for the purpose of gaining or producing income therefrom or from a business;
One-half fees paid to investment counsel	(dd) an amount equal to one-half of the fee paid by the corporation in the fiscal year to a person for advice as to the advisability of purchasing or selling a specific share or security, if that person's principal business is advising others as to the advisability of purchasing or selling specific shares or securities;

(ee) an amount paid by the corporation in the fiscal year as or on account of expenses incurred by it in making any representation relating to a business carried on by it, ^{Expenses of representation}

(i) to the government of a country, province or state or to a municipal or public body performing a function of government in Canada, or

(ii) to an agency of a government or of a municipal or public body referred to in sub-clause i that had authority to make rules, regulations or by-laws relating to the business carried on by the corporation,

including any representation for the purpose of obtaining a licence, permit, franchise or trade mark relating to the business carried on by the corporation;

(ff) an amount paid by the corporation in the fiscal year for investigating the suitability of a site for a building or other structure planned by the corporation for use in connection with a business carried on by the corporation; and ^{Investigation of site}

(gg) an amount paid by the corporation in the fiscal year to a person, other than a person with whom the corporation was not dealing at arm's length, for the purpose of making a service connection to its place of business for the supply, by means of wires, pipe or conduits, of electricity, gas, telephone service, water or sewers supplied by such person, to the extent that the amount so paid was not paid, ^{Utilities service connection}

(i) to acquire property of the corporation, or

(ii) as consideration for the goods or services for the supply of which the service connection was undertaken or made. R.S.O. 1970, c. 91, s. 23, *amended*.

(2) No corporation shall sell, pledge, assign or in any way dispose of any security received by it as payment in whole or in part for any property sold by it, where the corporation has set up a reserve in respect of the sale of the property under this section unless the corporation has provided the Minister, in writing, with the names of the purchaser, pledgee or assignee and with the amount of cash to be received by the corporation for the security and has obtained the written consent of the Minister with respect to such transaction. R.S.O. 1970, c. 91, s. 61 (9). ^{Disposal of security where reserve re sale of property}

Borrowed
money

(3) For the purposes of clause *c* of subsection 1, where a corporation has borrowed money in consideration of its promise to pay a larger amount and to pay interest on the larger amount,

- (a) the larger amount shall be deemed to be the amount borrowed; and
- (b) where the amount actually borrowed has been used in whole or in part for the purpose of earning income from a business or property, the proportion of the larger amount that the amount actually so used is of the amount actually borrowed shall be deemed to be the amount so used. R.S.O. 1970, c. 91, s. 23 (6).

Idem

(4) For greater certainty, it is hereby declared that where a corporation has borrowed money,

- (a) to repay money previously borrowed; or
- (b) to pay an amount payable for property described in subclause ii of clause *c* of subsection 1 previously acquired,

the borrowed money shall, for the purposes of section 25 and clause *c* or *m* of subsection 1, be deemed to have been used for the purpose for which the money previously borrowed was used or was deemed by this subsection to have been used, or to acquire the property in respect of which the said amount was so payable, as the case may be. R.S.O. 1970, c. 91, s. 23 (7).

Uncol-
lectable
portion of
proceeds
of dis-
position
of
depreciable
property

(5) Where an amount that is owing to a corporation as or on account of the proceeds of disposition of depreciable property of the corporation of a prescribed class is established by it to have become a bad debt in a fiscal year, there may be deducted in computing the income of the corporation for the fiscal year, the lesser of,

- (a) the amount so owing to the corporation; and
- (b) the amount, if any, by which the capital cost to the corporation of that property exceeds the aggregate of the amounts, if any, realized by it on account of the proceeds of disposition. R.S.O. 1970, c. 91, s. 23 (14).

Sale of
agreement
for sale of
mortgage
included
in proceeds
of disposition

(6) Where depreciable property of a corporation has, in a fiscal year, been disposed of to a person with whom the corporation was dealing at arm's length, and the proceeds of disposition include an agreement for sale of or mortgage or hypothec on land that the corporation has, in a subsequent fiscal year, sold to a person with whom it was dealing at

arm's length, there may be deducted in computing the income of the corporation for the subsequent fiscal year an amount equal to the lesser of,

- (a) the amount, if any, by which the principal amount of the agreement for sale, mortgage or hypothec outstanding at the time of the sale exceeds the consideration paid by the purchaser to the corporation for the agreement for sale, mortgage or hypothec; and
- (b) the amount determined under clause *a* less the amount, if any, by which the proceeds of disposition of the depreciable property exceed the capital cost to the corporation of that property. R.S.O. 1970, c. 91, s. 23 (15).

(7) Where an amount is deductible in computing income for a fiscal year under clause *o* of subsection 1 as a reserve in respect of, ^{Special reserves}

- (a) articles of food or drink that it is reasonably anticipated will have to be delivered after the end of the year; or
- (b) transportation that it is reasonably anticipated will have to be provided after the end of the year,

there shall be substituted for the amount determined thereunder an amount not exceeding the aggregate of amounts included in computing the corporation's income from the business for the year that were received or receivable, depending on the method regularly followed by the corporation in computing its profit, in the year in respect of,

- (c) articles of food or drink not delivered before the end of the year; or
- (d) transportation not provided before the end of the year,

as the case may be. R.S.O. 1970, c. 91, s. 61 (3).

(8) Clause *o* of subsection 1 does not apply to allow a ^{Exception} deduction,

- (a) as a reserve in respect of guarantees, indemnities or warranties;
- (b) in computing the income of a corporation for a fiscal year from a business in any case where the corpora-

tion's income for the fiscal year from that business is computed in accordance with the method authorized by subsection 1 of section 31; or

- (c) as a reserve in respect of insurance, except that an insurance corporation shall, in computing its income for a fiscal year from an insurance business, other than a life insurance business, carried on by it, deduct as policy reserves such amounts as are prescribed for the purposes of this clause. R.S.O. 1970, c. 91, s. 61 (4).

No deduction
in respect of
property
in certain
circum-
stances

(9) Clause *p* of subsection 1 does not apply to allow a deduction in computing the income of a corporation for a fiscal year from a business in respect of property sold in the course of the business where the corporation ceases to have a permanent establishment in Canada or becomes exempt from tax under any provision of this Part at any time in the fiscal year or in the immediately following fiscal year. R.S.O. 1970, c. 91, s. 61 (7).

Application
of subs.
(1) (*ee*)

(10) In lieu of making any deduction of an amount permitted by clause *ee* of subsection 1 in computing its income for a fiscal year from a business a corporation may, if it so elects in prescribed manner, make a deduction of one-tenth of that amount in computing its income for that fiscal year and a like deduction in computing its income for each of the immediately following fiscal years. R.S.O. 1970, c. 91, s. 23 (17).

Foreign
state
income
taxes

(11) In computing the income of a corporation for a fiscal year from a business carried on by the corporation in a country other than Canada, there may be deducted the amount, if any, of any income or profits taxes paid to the government of a state, province or other political subdivision of that country to the extent that such taxes,

(a) were deductible under the laws of that country in computing the amount for the year on which the corporation is liable to pay income or profits tax imposed by the government of that country; and

(b) may reasonably be regarded as having been paid in respect of the income of the corporation for the fiscal year from that business. *New.*

Accrued
bond
interest

(12) Where, by virtue of an assignment or other transfer of a bond, debenture or similar security, other than an income bond or an income debenture, including for greater certainty an assignment or other transfer after June 18, 1971 of a bill, note, mortgage, hypothec or similar obligation, the transferee

has become entitled to interest in respect of a period commencing before the time of transfer and ending after that time that is not payable until after the time of transfer, an amount equal to that proportion of the interest that the number of days in the portion of the period that preceded the day of transfer is of the number of days in the whole period,

- (a) shall be included in computing the income of the transferor for the fiscal year in which the transfer was made; and
- (b) may be deducted in computing the income of the transferee for a fiscal year in the computation of which there has been included,
 - (i) the full amount of the interest under section 16, or
 - (ii) a portion of the interest under clause *a*. R.S.O. 1970, c. 91, s. 31.

25.—(1) Where in a fiscal year a corporation has acquired property in respect of which the corporation is entitled to a deduction under regulations made under clause *a* of subsection 1 of section 24 in computing its income for that fiscal year, in this section referred to as “depreciable property”, if the corporation so elects in prescribed manner on or before the day on or before which the corporation is required by section 145 to file its return of income for the fiscal year,

- (a) in computing the corporation’s income for the fiscal year and for such of the three immediately preceding fiscal years as the corporation had, if any, clauses *c*, *d* and *e* of subsection 1 of section 24 do not apply to the amount or to the part of the amount specified by the corporation in its election that, but for this subsection, would have been deductible in computing the corporation’s income, other than exempt income, for the fiscal year and for those immediately preceding fiscal years, if any, by virtue of those clauses in respect of borrowed money used to acquire the depreciable property or the amount payable for the depreciable property acquired by it; and
- (b) the amount or part of the amount, as the case may be, described in clause *a* shall be added to the capital cost to it of the depreciable property so acquired by it. R.S.O. 1970, c. 91, s. 68 (1).

(2) Where in a fiscal year a corporation has used borrowed money for the purpose of exploration, prospecting or development

Borrowed money used for exploration, prospecting and development

ment, and the expenses incurred by the corporation in respect of exploration, prospecting and development are deductible in computing its income for the fiscal year by virtue of section 63 or would be so deductible by virtue of that section if the corporation had sufficient income for that fiscal year to permit the deduction, if the corporation so elects in prescribed manner on or before the day on or before which the corporation is required by section 145 to file its return of income for the fiscal year,

- (a) in computing its income for the fiscal year and for such of the three immediately preceding fiscal years as the corporation had, if any, clauses *c*, *d* and *e* of subsection 1 of section 24 do not apply to the amount or to the part of the amount specified by it in its election that, but for this subsection, would have been deductible in computing the corporation's income, other than exempt income, for the fiscal year and for those immediately preceding fiscal years, if any, by virtue of those clauses in respect of borrowed money used for exploration, prospecting and development; and
- (b) the amount or the part of the amount, as the case may be, described in clause *a* shall be deemed to be exploration, prospecting and development expenses incurred by the corporation in the fiscal year.
R.S.O. 1970, c. 91, s. 68 (2).

Idem

(3) In computing the income of the corporation for a fiscal year, where the corporation,

- (a) in any preceding fiscal year made an election under subsection 1 in respect of borrowed money used to acquire depreciable property or an amount payable for depreciable property acquired by it; and
- (b) in each fiscal year, if any, after that preceding fiscal year and before the fiscal year, made an election under this subsection covering the total amount that, but for this subsection, would have been deductible in computing the corporation's income, other than exempt income, for each such year by virtue of clauses *c*, *d* and *e* of subsection 1 of section 24 in respect of the borrowed money used to acquire the depreciable property or the amount payable for the depreciable property acquired by it,

if it so elects in prescribed manner on or before the day on or before which it is required by section 145 to file its return of income for the fiscal year, clauses *c*, *d* and *e* of

subsection 1 of section 24 do not apply to the amount or to the part of the amount specified by it in its election that, but for this subsection, would have been deductible in computing the corporation's income, other than exempt income, for the fiscal year by virtue of those clauses in respect of the borrowed money used to acquire the depreciable property or the amount payable for the depreciable property acquired by it, and the said amount or part of the amount, as the case may be, shall be added to the capital cost to it of the depreciable property so acquired by it. R.S.O. 1970, c. 91, s. 68 (3).

(4) In computing the income of a corporation for a fiscal ^{Idem} year, where the corporation,

- (a) in any preceding fiscal year made an election under subsection 2 in respect of borrowed money used for the purpose of exploration, prospecting or development; and
- (b) in each fiscal year, if any, after that preceding year and before the fiscal year, made an election under this subsection covering the total amount that, but for this subsection, would have been deductible in computing its income, other than exempt income, for each such year by virtue of clauses *c*, *d* and *e* of subsection 1 of section 24 in respect of the borrowed money used for the exploration, prospecting and development,

if the corporation so elects in prescribed manner on or before the day on or before which it is required by section 145 to file its return of income for the fiscal year, clauses *c*, *d* and *e* of subsection 1 of section 24 do not apply to the amount or to the part of the amount specified by it in its election that, but for this subsection, would have been deductible in computing the corporation's income, other than exempt income, for the fiscal year by virtue of those clauses in respect of the borrowed money used for the exploration, prospecting and development, and the said amount or part of the amount, as the case may be, shall be deemed to be exploration, prospecting and development expenses incurred by the corporation in the year. R.S.O. 1970, c. 91, s. 68 (4).

(5) Notwithstanding any other provision of this Act, where a corporation has made an election in accordance with the provisions of subsection 1 or 2, such reassessments <sup>Reassess-
ments</sup> of tax, interest or penalties shall be made as are necessary to give effect thereto. R.S.O. 1970, c. 91, s. 68 (5).

Ceasing to Carry on Business

Sale of
accounts
receivable

26.—(1) Where a person who has been carrying on a business has, in a fiscal year, sold all or substantially all the property used in carrying on the business, including the debts that have been or will be included in computing his income for that fiscal year or a previous fiscal year and that are still outstanding, and including the debts arising from loans made in the ordinary course of his business if part of his ordinary business was the lending of money and that are still outstanding, to a purchaser who proposes to continue the business which the vendor has been carrying on, if the vendor and the purchaser have executed jointly an election in prescribed form to have this section apply, the following rules are applicable,

- (a) there may be deducted in computing the vendor's income for the fiscal year an amount equal to the difference between the face value of the debts so sold, other than debts in respect of which the vendor has made deductions under clause *r* of subsection 1 of section 24, and the consideration paid by the purchaser to the vendor for the debts so sold;
- (b) an amount equal to the difference described in clause *a* shall be included in computing the purchaser's income for the fiscal year;
- (c) the debts so sold shall be deemed, for the purposes of clauses *n* and *r* of subsection 1 of section 24 to have been included in computing the purchaser's income for the fiscal year or a previous fiscal year but no deduction may be made by the purchaser under clause *r* of subsection 1 of section 24 in respect of a debt in respect of which the vendor has previously made a deduction; and
- (d) each amount deducted by the vendor in computing income for a previous fiscal year under clause *r* of subsection 1 of section 24 in respect of any of the debts so sold shall be deemed, for the purpose of clause *i* of subsection 1 of section 16, to have been so deducted by the purchaser. R.S.O. 1970, c. 91, s. 62 (1).

Statement
by vendor
and
purchaser

- (2) An election executed for the purposes of subsection 1 shall contain a statement by the vendor and the purchaser jointly as to the consideration paid for the debts sold by the vendor to the purchaser and that statement shall, as against the Minister, be binding upon the vendor and the purchaser

in so far as it may be relevant in respect of any matter arising under this Act. R.S.O. 1970, c. 91, s. 62 (2), *amended*; R.R.O. 1970, Reg. 814.

27.—(1) Where, upon or after disposing of or ceasing to carry on a business or a part of a business, a corporation has sold all or any part of the property that was included in the inventory of the business, the property so sold shall, for the purposes of this Part, be deemed to have been sold by the corporation in the course of carrying on the business. R.S.O. 1970, c. 91, s. 63 (1). Sale of inventory

(2) Where a person who has been carrying on a business has sold all or part of the property that was included in the inventory of the business, whether or not he has disposed of or ceased to carry on that business or a part of that business, to a person who has used all or part of the property so sold as inventory of a business carried on or to be carried on by the purchaser, and the amount of the consideration paid by the purchaser is, in part, consideration for the property so sold and, in part, consideration for something else, the following rules are applicable, Agreement as to price paid by vendor and purchaser

(a) such part of the consideration as the vendor and the purchaser have, in writing, agreed to be the price paid for the property so sold shall be deemed, both for the purpose of computing income from the business of the vendor and for the purpose of computing income from the business of the purchaser, to be the price so paid; and

(b) where an agreement as contemplated by clause *a* has not been filed with the Minister within sixty days after notice in writing by the Minister has been forwarded to the vendor and the purchaser that such an agreement is required for the purpose of any assessment of tax under this Act, such part of the consideration paid as is fixed by the Minister shall be deemed to be the price agreed upon by them as the price paid for the property so sold. R.S.O. 1970, c. 91, s. 63 (2).

(3) A reference in this section to property that was included in the inventory of a business shall be deemed to include a reference to property that would have been so included if the income from the business had not been computed in accordance with the method authorized by subsection 1 of section 31 or clause *d* of subsection 1 of section 36. R.S.O. 1970, c. 91, s. 63 (3). Reference to property included in inventory

Ceasing to
carry on
business

28.—(1) Notwithstanding clause *b* of subsection 1 of section 22, where a corporation has ceased to carry on a business, in computing the income of the corporation for its fiscal year in which it so ceased to carry on the business,

- (a) there shall be deducted the amount of its cumulative eligible capital in respect of the business at the time the corporation so ceased to carry on the business ;
- (b) no amount is deductible by virtue of clause *b* of subsection 1 of section 24 in respect of the business ; and
- (c) notwithstanding clause *a* of subsection 4 of section 18, its cumulative eligible capital in respect of the business immediately after the time the corporation so ceased to carry on the business shall be deemed to be nil.

Where
business
carried on
by controlled
corporation

(2) Where an individual has ceased to carry on a business and thereafter a corporation controlled directly or indirectly in any manner whatever by him, has carried on the business, in computing the cumulative eligible capital in respect of the business of the corporation at any time after the end of the fiscal year in which the individual so ceased to carry on the business, there shall be included the amount of the individual's cumulative eligible capital in respect thereof at the end of that fiscal year. *New.*

Special Cases

Banks

29.—(1) There shall be included in computing the income for a fiscal year of a bank, the amount by which the aggregate of the amounts that, at the end of the fiscal year, are set aside or reserved by way of write-down of the value of assets or appropriation to contingency reserves or contingent accounts for the purpose of meeting losses on loans, bad or doubtful debts, depreciation in the value of assets other than bank premises, or other contingencies, is, in the opinion of the Minister, having regard to all the circumstances, in excess of the reasonable requirements of the bank. R.S.O. 1970, c. 91, s. 21.

Idem

(2) Notwithstanding clauses *a* and *b* of subsection 1 of section 22, there may be deducted in computing the income for a fiscal year of a bank, such amount as is set aside or reserved for the fiscal year either by way of write-down of the value of assets or appropriation to any contingency reserve or contingent account for the purpose of meeting losses on loans, bad or doubtful debts, depreciation in the

value of assets other than bank premises, or other contingencies, and is, in the opinion of the Minister, having regard to all the circumstances, not in excess of the reasonable requirements of the bank. R.S.O. 1970, c. 91, s. 23 (8).

30.—(1) Where a corporation to which the exemptions provided by section 1 of section 122 and the specially reduced tax provided by subsection 1 of section 135 would otherwise apply is prescribed by regulation, such exemptions and specially reduced tax do not apply. R.S.O. 1970, c. 91, s. 59 (1). Crown corporations

(2) Where land has been transferred to a corporation prescribed in the regulations for the purpose of disposition, the acquisition of the property by the corporation and any disposition thereof shall be deemed not to have been in the course of the business carried on by the corporation. R.S.O. 1970, c. 91, s. 59 (4). Transfers of land for disposition

31.—(1) For the purpose of computing the income of a corporation for a fiscal year from a farming business, the income from the business for that fiscal year may, if the corporation so elects under subsection 1 of section 28 of the *Income Tax Act* (Canada), be computed in accordance with a method, hereinafter in this section referred to as the "cash" method, whereby the income therefrom for that fiscal year shall be deemed to be an amount equal to, Farming business
1970-71,
c. 63 (Can.)

(a) the aggregate of all amounts that,

- (i) were received in the year, or are deemed by this Act to have been received in the year, in the course of carrying on the business, and
- (ii) were in payment of or on account of an amount that would, if the income from the business were not computed in accordance with the cash method, be included in computing income therefor for that or any other year,

minus,

(b) the aggregate of all amounts that,

- (i) were paid in the year, or are deemed by this Act to have been paid in the year, in the course of carrying on the business, and
- (ii) were in payment of or on account of an amount that would, if the income from the business were not computed in accordance with the

cash method, be deductible in computing income therefrom for that or any other year,

and minus any deductions for the year permitted by clauses *a* and *b* of subsection 1 of section 24. R.S.O. 1970, c. 91, s. 64 (1) (*a*).

Idem

(2) Subsection 1 does not apply for the purpose of computing the income of a corporation for a fiscal year from a farming business carried on by it jointly with one or more other persons, unless each of the other persons by whom the business is jointly carried on has elected to have his income from the business for that year computed in accordance with the method authorized by that subsection. R.S.O. 1970, c. 91, s. 64 (2).

Concurrence of Minister

(3) Where a corporation has filed a return under Part V for a fiscal year wherein its income for that fiscal year from a farming business has been computed in accordance with the method authorized by subsection 1, income from the business for a subsequent fiscal year shall, subject to the other provisions of this Part, be computed in accordance with that method unless the corporation, with the concurrence of the Minister and upon such terms and conditions as are specified by the Minister, adopts some other method. R.S.O. 1970, c. 91, s. 64 (3).

Change in residence

(4) Where a corporation that, at a time when it was a resident of Canada, carried on a business the income from which was computed in accordance with the method authorized by subsection 1 has, upon or after disposing of or ceasing to carry on the business or a part of the business, ceased to be a resident of Canada in a fiscal year, an amount equal to the value, at the time it ceased to be a resident of Canada, of,

- (a) such part of the property that would have been included in the inventory of the business or the part of the business if the income from the business had not been computed in accordance with the method authorized by subsection 1 as remained the property of the corporation at the time it ceased to be a resident of Canada; and
- (b) such part of amounts outstanding at the time the corporation ceased to be a resident of Canada as or on account of debts owing to the corporation that arose in the course of carrying on the business as would have been included in computing its income for the fiscal year if the amounts had been received by it in the year at a time when it was a resident of Canada,

shall be included in computing its income. R.S.O. 1970, c. 91, s. 64 (4).

(5) There shall be included in computing the income of a corporation for a fiscal year such part of an amount received by it in the year, upon or after disposing of or ceasing to carry on a business or a part of a business, for, on account or in lieu of payment of, or in satisfaction of debts owing to the corporation that arose in the course of carrying on the business as would have been included in computing the income of the corporation for the fiscal year had the amount so received been received by it in the course of carrying on the business. R.S.O. 1970, c. 91, s. 64 (5). ^{Accounts receivable}

32. Notwithstanding clauses *a* and *b* of subsection 1 of section 22, there may be deducted in computing a corporation's income for a fiscal year from a farming business any amount paid by it in the fiscal year for clearing land, levelling land or laying tile drainage for the purpose of carrying on the farming business. R.S.O. 1970, c. 91, s. 23 (16). ^{Clearing land, levelling land and laying tile drainage}

33.—(1) Where a corporation's chief source of income for a fiscal year is neither farming nor a combination of farming and some other source of income, for the purposes of sections 12 and 99 its loss, if any, for the fiscal year from all farming businesses carried on by it shall be deemed to be the lesser of, ^{Loss from farming where chief source of income not farming}

(a) the amount by which the aggregate of its losses for the fiscal year otherwise determined from all farming businesses carried on by it exceeds the aggregate of its incomes for the fiscal year from all such businesses; and

(b) \$2,500 plus the lesser of,

(i) one-half of the amount by which the amount determined under clause *a* exceeds \$2,500, and

(ii) \$2,500,

and for the purposes of this Act the amount, if any, by which the amount determined under clause *a* exceeds the amount determined under clause *b* is the corporation's "restricted farm loss" for the fiscal year. R.S.O. 1970, c. 91, s. 25 (1).

(2) For the purpose of this section, the Minister may determine that a corporation's chief source of income for a fiscal year is neither farming nor a combination of farming and some other source of income. R.S.O. 1970, c. 91, s. 25 (2). ^{Determination by Minister}

Insurance
agent
and brokers

34.—(1) Clause *o* of subsection 1 of section 24 does not apply to allow a deduction to an insurance agent or broker in respect of unearned commissions but a corporation may, in computing its income from a business as an insurance agent or broker for a fiscal year, deduct as a reserve in respect of unearned commissions an amount equal to the proportion of an amount that has been included in computing its income for the fiscal year or a previous fiscal year as a commission in respect of an insurance contract, other than a life insurance contract, that,

- (a) the number of days in that portion of the period provided for in the insurance contract that is after the end of the fiscal year,

is of,

- (b) the whole of that period. R.S.O. 1970, c. 91, s. 61 (5).

Reserve
to be
included

(2) There shall be included as income of a corporation for a fiscal year from a business as an insurance agent or broker, the amount deducted under subsection 1 in computing its income therefrom for the immediately preceding fiscal year. *New.*

Lending
of money
on security

35.—(1) In computing the income for a fiscal year of a corporation whose business includes the lending of money on the security of a mortgage, hypothec or agreement of sale of real property, there may be deducted as a reserve, in lieu of any deduction under clause *n* of subsection 1 of section 24, such amount as the corporation may claim not exceeding the lesser of,

- (a) $1\frac{1}{2}$ per cent of the aggregate of,

- (i) each amount outstanding at the end of the fiscal year as or on account of the principal amount of loans made by the corporation on the security of a mortgage, hypothec or agreement of sale of real property, or as or on account of the principal amount of any such mortgage, hypothec or agreement of sale purchased by it,

- (ii) each amount due and unpaid at the end of the fiscal year as or on account of interest payable to the corporation under a mortgage, hypothec or agreement of sale of real property, and

- (iii) each amount that has been taken into account in computing the income of the corporation for the fiscal year as or on account of the value of real property of the corporation that was included in the inventory of the corporation at the end of the fiscal year and that was acquired, by foreclosure or otherwise, after default made under a mortgage, hypothec or agreement of sale of real property, otherwise than as or on account of the value of real property in respect of which any amount for the fiscal year has been included under subclause i or ii; and

- (b) the amount, if any, deducted under this subsection as a reserve in computing the corporation's income for the immediately preceding fiscal year plus one-third of the amount determined under clause a,

but no deduction may be made under this subsection as a reserve in respect of loans made on the security of a mortgage or hypothec under the *National Housing Act* (Canada) or any of the Housing Acts as defined in section 2 of the *Central Mortgage and Housing Corporation Act* (Canada). R.S.O. 1970, c. 91, s. 65 (a). R.S.C. 1970,
cc. N-10, C-16

(2) There shall be included as income of a corporation for a fiscal year from a business described in subsection 1, the amount deducted under that subsection as a reserve in computing its income therefrom for the immediately preceding fiscal year. R.S.O. 1970, c. 91, s. 65 (b). Reserve
to be
included

36.—(1) In computing the income of a corporation for a fiscal year from a business that is a profession, the following rules apply, Professional
business

- (a) clause b of subsection 1 of section 16 and clause o of subsection 1 of section 24 are not applicable;
- (b) every amount that becomes receivable by it in the fiscal year in respect of property sold or services rendered in the course of the business shall be included;
- (c) for the purposes of clause b, an amount shall be deemed to have become receivable in respect of services rendered in the course of the business on the day that is the earliest of,
 - (i) the day upon which the account in respect of the services was rendered,

(ii) the day upon which the account in respect of those services would have been rendered had there been no undue delay in rendering the account in respect of the services, and

(iii) the day upon which the corporation was paid for the services; and

(d) where the corporation so elects in its return of income under Part I of the *Income Tax Act* (Canada) for the fiscal year, no amount shall be included in respect of work in progress at the end of the fiscal year, except as otherwise provided by this section.

1970-71,
c. 63 (Can.)

Application
of subs. 1 (d)
where
election
made

(2) Where a corporation has elected that clause *d* of subsection 1 be applicable in computing its income for a fiscal year from a business that is a profession, that clause shall apply in computing its income from the business for all subsequent fiscal years unless the corporation, with the concurrence of the Minister and upon such terms and conditions as are specified by the Minister, revokes its election to have that clause apply. *New.*

Prospectors
and
grub-
stakers

37.—(1) Where a share of the capital stock of a corporation,

(a) is received in a fiscal year,

(i) by a person who has, either under an arrangement with a prospector made before the prospecting, exploration or development work or as an employer of a prospector, advanced money for, or paid part or all of, the expenses of prospecting or exploring for minerals or of developing a property for minerals, and

(ii) as consideration for the disposition by the person referred to in subclause i to the corporation of a mining property or interest therein acquired under the arrangement under which the corporation made the advance or paid the expenses, or if the prospector was its employee, acquired by it through the employee's efforts,

the following rules apply,

(b) notwithstanding any other provision of this Act, no amount in respect of the receipt of the share shall be included in computing the income for the fiscal year of the person;

(c) notwithstanding Subdivision B, in computing the cost to the person of the share, no amount shall be included in respect of the mining property or interest therein, as the case may be; and

(d) notwithstanding section 63, in computing the cost to the corporation of the mining property or the interest therein, as the case may be, no amount shall be included in respect of the share. R.S.O. 1970, c. 91, s. 57 (2).

(2) In this section,

Inter-
pretation

(a) "mining property" means a right to prospect, explore or mine for minerals or a property the principal value of which depends upon its mineral content; and

(b) "prospector" means an individual who prospects or explores for minerals or develops a property for minerals on behalf of himself, on behalf of himself and others or as an employee. R.S.O. 1970, c. 91, s. 57 (1).

38. Where any amount in respect of an expenditure incurred by a corporation on or in respect of the repair, replacement, alteration or renovation of depreciable property of the corporation of a class prescribed by the regulations made for the purposes of this section is, under a uniform classification and system of accounts and returns prescribed by the Canadian Transport Commission pursuant to the *Railway Act* (Canada), required to be entered in the books of the corporation otherwise than as an expense,

Railway
companies

R.S.C. 1970,
c. R-2

(a) no deduction may be made in respect of that expenditure in computing the income of the corporation for the fiscal year; and

(b) for the purposes of section 17 and regulations made under clause *a* of subsection 1 of section 24, the corporation shall be deemed to have acquired, at the time the expenditure was incurred, depreciable property of that class at a capital cost equal to that amount. R.S.O. 1970, c. 91, s. 60 (3).

39.—(1) There may be deducted in computing the income for a fiscal year of a corporation that had a permanent establishment in Canada and made expenditures in respect of scientific research in the fiscal year the amount by which the aggregate of,

Scientific
research

- (a) all expenditures of a current nature made in Canada in the fiscal year,
 - (i) on scientific research related to the business and directly undertaken by or on behalf of the corporation,
 - (ii) by payments to an approved association that undertakes scientific research related to the class of business of the corporation,
 - (iii) by payments to an approved university, college, research institute or other similar institution to be used for scientific research related to the class of business of the corporation,
 - (iv) by payments to a corporation resident in Canada and exempt from tax under clause g of subsection 1 of section 122, or
 - (v) by payments to a corporation resident in Canada for scientific research related to the business of the corporation;
- (b) such amount as may be claimed by the corporation not exceeding the lesser of,
 - (i) the expenditures of a capital nature made in Canada, by acquiring property other than land, in the fiscal year and any previous fiscal year ending after 1958 on scientific research relating to the business and directly undertaken by or on behalf of the corporation, and
 - (ii) the undepreciated capital cost to the corporation of the property so acquired as at the end of the fiscal year, before making any deduction under this clause in computing the income of the corporation for the fiscal year; and
- (c) all expenditures in the fiscal year by way of repayment of amounts paid to the corporation under an *Appropriation Act* (Canada) and on terms and conditions approved by the Minister for the purpose of advancing or sustaining the technological capability of Canadian manufacturing or other industry,

exceeds the aggregate of amounts paid to the corporation in the fiscal year under an *Appropriation Act* (Canada) and on

terms and conditions described in clause *c*. R.S.O. 1970, c. 91, s. 46 (1).

(2) There may be deducted in computing the income for a ^{Research outside Canada} fiscal year of a corporation that carried on business in Canada and made expenditures in the fiscal year in respect of scientific research carried on outside Canada, all such expenditures of a current nature made in the fiscal year,

(a) on scientific research related to the business and directly undertaken by or on behalf of the corporation; or

(b) by payments to an approved association, university, college, research institute or other similar institution to be used for scientific research related to the class of business of the corporation. R.S.O. 1970, c. 91, s. 46 (2).

(3) Where any particular activity constitutes scientific ^{Idem} research for the purposes of section 37 of the *Income Tax Act* ^{1970-71, c. 63 (Can.)} (Canada), such particular activity shall constitute scientific research for the purposes of this Act. R.S.O. 1970, c. 91, s. 46 (3).

(4) No deduction may be made under this section in respect ^{Deductions} of an expenditure made to acquire rights in, or arising out of, scientific research. R.S.O. 1970, c. 91, s. 46 (4).

(5) Where in respect of an expenditure on scientific research ^{Idem} made by a corporation in a fiscal year an amount is deductible under this section and under section 98 no deduction may be made in respect of the expenditure under section 98 in computing the taxable income of the corporation for any fiscal year. R.S.O. 1970, c. 91, s. 46 (5).

(6) An amount claimed under clause *b* of subsection 1 in ^{Expenditures of a capital nature} computing a deduction under that subsection shall, for the purpose of section 17, be deemed to be an amount allowed to the corporation in respect of the property acquired by the expenditures under regulations made under clause *a* of subsection 1 of section 24, and for that purpose the property acquired by the expenditures shall be deemed to be of a separate prescribed class. R.S.O. 1970, c. 91, s. 46 (7).

(7) In this section,

Interpre-
tation

(a) "approved" means approved by the Minister;

(b) "scientific research" has the meaning given to that expression by regulation;

- (c) references to expenditures on or in respect of scientific research,
- (i) where the references occur in subsection 2, include only expenditures incurred for and wholly attributable to the prosecution of scientific research, and
 - (ii) where the references occur other than in subsection 2, include only expenditures incurred for and wholly attributable to the prosecution or the provision of facilities for the prosecution, of scientific research in Canada; and
- (d) references to scientific research relating to a business or class of business include any scientific research that may lead to or facilitate an extension of that business or, as the case may be, business of that class. R.S.O. 1970, c. 91, s. 46 (6).

SUBDIVISION B—TAXABLE CAPITAL GAINS
AND ALLOWABLE CAPITAL LOSSES

Meaning of
taxable
capital gain
and allowable
capital
loss

40. For the purposes of this Act,

- (a) a corporation's taxable capital gain for a fiscal year from the disposition of any property is one-half of its capital gain for the fiscal year from the disposition of that property; and
- (b) a corporation's allowable capital loss for a fiscal year from the disposition of any property is one-half of its capital loss for the fiscal year from the disposition of that property. *New.*

Meaning of
capital
gain and
capital
loss

41.—(1) For the purposes of this Act,

- (a) a corporation's capital gain for a fiscal year from the disposition of any property is the corporation's gain for the year determined under this Subdivision, to the extent of the amount thereof that would not, if section 12 were read without reference to the expression "other than a taxable capital gain from the disposition of a property" in clause *a* thereof and without reference to clause *b* thereof, be included in computing the corporation's income for the fiscal year or any other fiscal year, from the disposition of any property of the corporation other than,
 - (i) eligible capital property,

- (ii) property, any amount receivable by the corporation for the disposition of which is required to be included in computing the corporation's income for the fiscal year by virtue of section 59, or
 - (iii) a life insurance policy within the meaning of section 138 of the *Income Tax Act* (Canada), ^{1970-71, c. 63 (Can.)} except an annuity contract; and
- (b) a corporation's capital loss for a fiscal year from the disposition of any property is the corporation's loss for the year determined under this Subdivision, to the extent of the amount thereof that would not, if section 12 were read in the manner described in clause *a* of this subsection, be deductible in computing the corporation's income for the fiscal year or any other fiscal year, from the disposition of any property of the corporation other than,
- (i) depreciable property, or
 - (ii) property described in subclause i, ii or iii of clause *a*.

(2) Notwithstanding subsection 1, where, by virtue of any fluctuation after 1971 in the value of currency or currencies of one or more countries other than Canada relative to Canadian currency, a corporation has made a gain or sustained a loss in a fiscal year, the following rules apply,

- (a) the amount, if any, by which,
 - (i) the aggregate of all such gains made by the corporation in the fiscal year, to the extent of the amount thereof that would not if section 12 were read in the manner described in clause *a* of subsection 1 of this section, be included in computing the corporation's income for the fiscal year or any other fiscal year,

exceeds

 - (ii) the aggregate of all such losses sustained by the corporation in the fiscal year, to the extent of the amounts thereof that would not, if section 12 were read in the manner described in clause *a* of subsection 1 of this section be deductible in computing the corporation's income for the fiscal year or any other fiscal year,

shall be deemed to be a capital gain of the corporation for the fiscal year from the disposition of currency of a country other than Canada, the amount of which capital gain is the amount determined under this clause; and

(b) the amount, if any, by which,

(i) the aggregate determined under subclause ii of clause *a*,

exceeds

(ii) the aggregate determined under subclause i of clause *a*,

shall be deemed to be a capital loss of the corporation for the year from the disposition of currency of a country other than Canada, the amount of which capital loss is the amount determined under this clause.

Gain on
purchase
of bonds
by issuer

(3) Where a corporation has issued any bond, debenture or similar obligation and has at any subsequent time in a fiscal year and after 1971 purchased the obligation in the open market, in the manner in which any such obligation would normally be purchased in the open market by any member of the public,

(a) the amount, if any, by which the amount for which the obligation was issued by the corporation exceeds the purchase price paid or agreed to be paid by the corporation for the obligation shall be deemed to be a capital gain of the corporation for the fiscal year from the disposition of a capital property; and

(b) the amount, if any, by which the purchase price paid or agreed to be paid by the corporation for the obligation exceeds the greater of the principal amount thereof and the amount for which it was issued by the corporation shall be deemed to be a capital loss of the corporation for the fiscal year from the disposition of a capital property,

to the extent of the amount of the capital gain or capital loss, as the case may be, that would not, if section 12 were read in the manner described in clause *a* of subsection 1 of this section, be included or be deductible, as the case may be, in computing the corporation's income for the fiscal year or any other fiscal year. *New.*

42.—(1) Except as otherwise expressly provided in this Part, General rules

- (a) a corporation's gain for a fiscal year from the disposition of any property is the amount, if any, by which,
 - (i) if the property was disposed of in the fiscal year, the amount, if any, by which the corporation's proceeds of disposition exceed the aggregate of the adjusted cost base to it of the property immediately before the disposition and any outlays and expenses to the extent that they were made or incurred by the corporation for the purpose of making the disposition, or
 - (ii) if the property was disposed of before the fiscal year, the amount, if any, claimed by the corporation under subclause iii in computing the corporation's gain for the immediately preceding fiscal year from the disposition of the property,

exceeds

- (iii) such amount as the corporation may claim, not exceeding a reasonable amount as a reserve in respect of such of the proceeds of disposition of the property that are not due to the corporation until after the end of the fiscal year as may reasonably be regarded as a portion of the amount determined under subclause i in respect of the property; and
- (b) a corporation's loss for a fiscal year from the disposition of any property is,
 - (i) if the property was disposed of in the fiscal year, the amount, if any, by which the aggregate of the adjusted cost base to the corporation of the property immediately before the disposition and any outlays and expenses to the extent that they were made or incurred by the corporation for the purpose of making the disposition, exceeds its proceeds of disposition of the property, and

- (ii) in any other case, nil.

(2) Notwithstanding subsection 1,

Limitations

- (a) subclause iii of clause *a* of subsection 1 does not apply to permit a corporation to claim any amount thereunder in computing a gain for a fiscal year if the corporation was, at any time in the fiscal year or the immediately following fiscal year, not resident in Canada;
- (b) a corporation's loss for a fiscal year from the disposition of a bond or debenture is its loss therefrom for the fiscal year otherwise determined, less the aggregate of such amounts received by it as, on account or in lieu of payment of, or in satisfaction of interest thereon as were, by virtue of clause *e* of subsection 1 of section 75, not included in computing its income;
- (c) a corporation's loss otherwise determined from the disposition of any property disposed of by it to,
 - (i) a person by whom it was controlled, or
 - (ii) a corporation that was controlled by a person described in subclause i,
 is nil;
- (d) a corporation's gain or loss from the disposition of,
 - (i) a chance to win a prize, or
 - (ii) a right to receive an amount as a prize,
 in connection with a lottery scheme is nil; and
- (e) a corporation's loss, if any, from the disposition of a property, to the extent that it is,
 - (i) a superficial loss,
 - (ii) a loss from the disposition of a debt or other right to receive an amount, unless the debt or right, as the case may be, was acquired by the corporation for the purpose of gaining or producing income from a business or property, other than exempt income, or as consideration for the disposition of capital property to a person with whom the corporation was dealing at arm's length, or

- (iii) a loss from the disposition of any personal-use property of the corporation other than listed personal property,

is nil.

- (3) Where,

- (a) the aggregate of all amounts required by subsection 2 of section 55, except clause *b* thereof, to be deducted in computing the adjusted cost base to a corporation of any property at any time in a fiscal year,

Deemed gain where amounts to be deducted from adjusted cost base exceed cost plus amounts to be added to adjusted cost base

exceeds

- (b) the aggregate of the cost to it of the property and all amounts required by subsection 1 of section 55 to be included in computing the adjusted cost base to a corporation of that property at that time,

the amount of the excess shall be deemed to be a gain of the corporation for the fiscal year from a disposition at that time of that property. *New.*

43.—(1) For the purposes of this Part, a corporation's taxable net gain for a fiscal year from dispositions of listed personal property is one-half of the amount determined under subsection 2 to be its net gain for the fiscal year from dispositions of such property.

Meaning of taxable net gain from dispositions of listed personal property

(2) A corporation's net gain for a fiscal year from dispositions of listed personal property is an amount determined as follows,

Determination of net gain

- (a) determine the amount, if any, by which the aggregate of its gains for the fiscal year from dispositions of listed personal property exceeds the aggregate of its losses for the fiscal year from dispositions of listed personal property; and
- (b) deduct from the amount determined under clause *a* its listed-personal-property losses for the five fiscal years immediately preceding and the fiscal year immediately following the fiscal year, except that for the purposes of this clause,
- (i) an amount in respect of a listed-personal-property loss is only deductible to the extent that it exceeds the aggregate of amounts previously deductible in respect of that loss under this clause,

- (ii) no amount is deductible in respect of the listed-personal-property loss of any fiscal year until the deductible listed-personal-property losses for previous fiscal years have been deducted, and
- (iii) no amount is deductible in respect of listed-personal-property losses from the amount determined under clause *a* for a fiscal year except to the extent of the amount so determined for the fiscal year,

and the remainder determined under clause *b* is the corporation's net gain for the fiscal year from dispositions of listed personal property.

"Listed-personal-property-loss" defined

(3) In this section, "listed-personal-property loss" of a corporation for a fiscal year means the amount, if any, by which the aggregate of its losses for the fiscal year from dispositions of listed personal property exceeds the aggregate of its gains for the fiscal year from dispositions of listed personal property. *New.*

Dispositions subject to warranty

44. In computing a corporation's proceeds of disposition of any property for the purposes of this Subdivision, there shall be included any amount received or receivable by the corporation as consideration for any warranty, covenant or other conditional or contingent obligation incurred by the corporation in respect of the disposition, and in computing the corporation's income for the fiscal year in which the property was disposed of or for any of the six immediately following fiscal years, any outlay or expense made or incurred by the corporation in any such fiscal year pursuant to or by virtue of the obligation shall, if the obligation was a legal obligation incurred by the corporation, be deemed to be a loss of the corporation for that fiscal year from the disposition of a capital property. *New.*

Part dispositions

45. For the purpose of computing a corporation's gain for a fiscal year from the disposition of a part of a property, the adjusted cost base to the corporation, immediately before the disposition, of that part is such portion of the adjusted cost base to the corporation at that time of the whole property as may reasonably be regarded as attributable to that part. *New.*

Deferral of gain on involuntary dispositions

46. Where in a fiscal year a corporation has received proceeds of disposition described in subclause iii or iv of clause *i* of section 56 of any property, in this section referred to as its "former property", and, before the end of the following fiscal year, has expended an amount to acquire other property as a replacement for its former property, notwithstanding subsection 1 of section 42,

(a) the gain, if any, from the disposition of its former property is the lesser of,

(i) the gain therefrom otherwise determined, and

(ii) the amount, if any, by which the proceeds of disposition of its former property exceed the cost to the corporation, otherwise determined, of the other property; and

(b) the cost to the corporation of the other property shall be deemed to be the cost to the corporation of the other property otherwise determined, minus the amount, if any, by which the gain described in subclause i of clause *a* exceeds the excess, if any, determined under subclause ii of clause *a*. *New.*

47.—(1) For the purposes of this Subdivision the following rules apply, Property with more than one use

(a) where a corporation,

(i) having acquired property for some other purpose, has commenced at a later time to use it for the purpose of gaining or producing income therefrom, or for the purpose of gaining or producing income from a business, or

(ii) having acquired property for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, has commenced at a later time to use it for some other purpose,

the corporation shall be deemed to have,

(iii) disposed of it at that later time for proceeds equal to its fair market value at that later time, and

(iv) immediately thereafter reacquired it at a cost equal to that fair market value;

(b) where property has, since it was acquired by a corporation, been regularly used in part for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business and in part for some other purpose, the corporation shall be deemed to have acquired, for that other purpose, the proportion of the property that the use

regularly made of the property for that other purpose is of the whole use regularly made of the property at a cost to the corporation equal to the same proportion of the cost to it of the whole property; and, if the property has, in such a case, been disposed of, the proceeds of disposition of the proportion of the property deemed to have been acquired for that other purpose shall be deemed to be the same proportion of the proceeds of disposition of the whole property; and

(c) where, at any time after a corporation has acquired property, there has been a change in the relation between the use regularly made by the corporation of the property for gaining or producing income therefrom or income from a business and the use regularly made of the property for other purposes,

(i) if the use regularly made by it of the property for those other purposes has increased, it shall be deemed to have,

(A) disposed of property at that time for proceeds equal to the proportion of the fair market value of the property at that time that the amount of the increase in the use regularly made by the corporation of the property for those other purposes is of the whole use regularly made of the property, and

(B) immediately thereafter reacquired the property so disposed of at a cost equal to the proceeds referred to in sub-subclause A, and

(ii) if the use regularly made by the corporation of the property for those other purposes has decreased, it shall be deemed to have disposed of property at that time and the proceeds of disposition shall be deemed to be an amount equal to the proportion of the fair market value of the property at that time that the amount of the decrease in use regularly made by it of the property for those other purposes is of the whole use regularly made of the property.

Election
where
change
in use

(2) For the purposes of this Subdivision and section 17, where clause *a* of subsection 1 and paragraph 2 of subsection 6 of

section 17 would otherwise be applicable in respect of any property of a corporation for a fiscal year and the corporation so elects as provided under subsection 2 of section 45 of the *Income Tax Act* (Canada), the corporation shall be deemed not to have commenced to use the property for the purpose of gaining or producing income therefrom or for the purpose of corporation rescinds such election in a subsequent fiscal year in respect of the property, it shall be deemed to have commenced so to use the property on the first day of that subsequent fiscal year. *New.*

48.—(1) Where a corporation has disposed of any personal-use property of the corporation, for the purposes of this Subdivision,

(a) the adjusted cost base to the corporation of the property immediately before the disposition shall be deemed to be the greater of \$1,000 and the amount otherwise determined to be its adjusted cost base to it at that time; and

(b) its proceeds of disposition of the property shall be deemed to be the greater of \$1,000 and its proceeds of disposition of the property otherwise determined.

(2) Where a corporation has disposed of part of a personal-use property owned by it and has retained another part of the property, for the purposes of this Subdivision,

(a) the adjusted cost base to the corporation immediately before the disposition, of the part so disposed of shall be deemed to be the greater of,

(i) the adjusted cost base to it at that time of that part otherwise determined, and

(ii) that proportion of \$1,000 that the amount determined under subclause i is of the adjusted cost base to it at that time of the whole property; and

(b) the proceeds of disposition of the part so disposed of shall be deemed to be the greater of,

(i) the proceeds of disposition thereof otherwise determined, and

(ii) the amount determined under subclause ii of clause a.

Properties
ordinarily
disposed
of as a set

(3) For the purposes of this Subdivision, where a number of personal-use properties of a corporation that would, if the properties were disposed of, ordinarily be disposed of in one disposition as a set,

- (a) have been disposed of by more than one disposition so that all of the properties have been acquired by one person or by a group of persons not dealing with each other at arm's length; and
- (b) had, immediately before the first disposition referred to in clause *a*, an aggregate fair market value greater than \$1,000,

the properties shall be deemed to be a single personal-use property and each such disposition shall be deemed to be a disposition of a part of that property.

Decrease in
value of
personal-
use property
of corpora-
tion, etc.

(4) Where it may reasonably be regarded that, by reason of a decrease in the fair market value of any personal-use property of a corporation, partnership or trust,

- (a) a corporation's gain, if any, from the disposition of a share of the capital stock of a corporation, an interest in a trust or an interest in a partnership has become a loss, or is less than it would have been if the decrease had not occurred; or
- (b) a corporation's loss, if any, from the disposition of a share or interest described in clause *a* is greater than it would have been if the decrease had not occurred,

the amount of the gain or loss, as the case may be, shall be deemed to be the amount that it would have been but for the decrease. *New.*

Identical
properties

49.—(1) Where at any particular time after 1971 a corporation that owns one property or two or more identical properties that was or each of which was, as the case may be, acquired by it after 1971, acquires one or more other properties, in this subsection referred to as "newly-acquired properties", each of which is identical to each such previously-acquired property, for the purposes of computing, at any subsequent time, the adjusted cost base to the corporation of each such identical property,

- (a) the corporation shall be deemed to have disposed of each such previously-acquired property immediately before the particular time for proceeds equal to its adjusted cost base to it immediately before the particular time; and

(b) the corporation shall be deemed to have acquired each such identical property at the particular time at a cost equal to the quotient obtained when,

- (i) the aggregate of the adjusted cost bases to the corporation immediately before the particular time of the previously-acquired properties, and the cost to it, determined without reference to this section, of the newly-acquired properties,

is divided by

- (ii) the number of such identical properties owned by the corporation immediately after the particular time.

(2) For the purposes of subsection 1, where a group of identical properties referred to in that subsection is a group of identical obligations within the meaning of subsection 3, subclause ii of clause b of subsection 1 shall be read as follows: ^{Where identical properties are bonds, etc.}

- “(ii) the quotient obtained when the aggregate of the principal amounts of all such identical properties owned by the corporation immediately after the particular time is divided by the principal amount of the identical property.”

(3) For the purposes of this Subdivision, one bond, debenture, bill, note or other similar obligation issued by a debtor is identical to another such obligation issued by that debtor if both are identical in respect of all rights, in equity or otherwise, either immediately or in the future and either absolutely or contingently, attaching thereto, except as regards the principal amount thereof. *New.* ^{When bonds, etc., are identical}

50.—(1) For the purposes of this Subdivision, where at any time in a fiscal year a corporation ceases to be resident in Canada, it shall be deemed to have disposed of each property, other than any property that would be taxable Canadian property if at no time in the fiscal year it had been resident in Canada, owned by the corporation at that time, for proceeds of disposition equal to the fair market value of the property at that time, and to have reacquired the property immediately thereafter at a cost equal to that fair market value. ^{Deemed disposition on ceasing to be resident in Canada}

(2) For the purposes of this Subdivision, where at any time after 1971 a corporation becomes a resident of Canada, it shall be deemed to have acquired at that time each property owned by it at that time, other than property that would be taxable Canadian property if at no time in the fiscal year it had been ^{Deemed acquisition on becoming a resident of Canada}

resident in Canada, if the corporation had disposed of it immediately before that time, at a cost equal to its fair market value at the time it became a resident of Canada. *New.*

Granting
of option

51.—(1) Subject to subsections 2 and 3, for the purpose of this Subdivision the granting of an option, other than an option granted by a corporation to acquire shares of its capital stock or bonds or debentures to be issued by it, is a disposition of a property the adjusted cost base of which to the grantor immediately before the grant is nil.

Where
option
expires

(2) Where at any time an option described in subsection 1, other than an option the consideration for the granting of which is an amount described in subclause v of clause b of subsection 12 of section 63 paid pursuant to an agreement described in that subclause, that has been granted by a corporation after 1971 expires,

- (a) the corporation shall be deemed to have disposed of capital property at that time for proceeds equal to the proceeds received by it for the granting of the option; and
- (b) the adjusted cost base to the corporation of that capital property immediately before that time shall be deemed to be nil.

Where
option
exercised

(3) Where an option is exercised so that property is disposed of by a corporation, hereinafter referred to as the "vendor", or so that property is acquired by another corporation, hereinafter referred to as the "purchaser", for the purpose of computing the income of each such corporation the granting of the option and the exercise thereof shall be deemed not to be dispositions of property and,

- (a) if the option is an option to acquire property, there shall be included,
 - (i) in computing the vendor's proceeds of disposition of the property, the consideration received by him for the option, and
 - (ii) in computing the cost to the purchaser of the property, the adjusted cost base to him of the option; and
- (b) if the option is an option to dispose of property, there shall be deducted,

- (i) in computing the vendor's proceeds of disposition of the property, the adjusted cost base to him of the option, and
- (ii) in computing the cost to the purchaser of the property, the consideration received by him for the option.

(4) Where,

- (a) an option granted by a corporation in a fiscal year, in this subsection referred to as the "initial fiscal year", is exercised in a subsequent fiscal year, in this subsection referred to as the "subsequent fiscal year";
- (b) the corporation has filed a return for the initial fiscal year as required by section 145; and
- (c) on or before the day on or before which it was required by section 145 to file a return for the subsequent fiscal year, has filed an amended return for the initial fiscal year excluding from its income the proceeds received by it for the granting of the option,

Reassessment where option exercised in subsequent year

such reassessment of the corporation's tax, interest or penalties for the fiscal year shall be made as is necessary to give effect to the exclusion. *New.*

52.—(1) For the purposes of this Subdivision, where a debt owing to a corporation at the end of a fiscal year, other than a debt owing to it in respect of the disposition of a personal-use property, is established by it to have become a bad debt in the fiscal year, it shall be deemed to have disposed of it at the end of the fiscal year and to have reacquired it immediately thereafter at a cost equal to nil.

Debts established to be bad debts

(2) Where a debt owing to a corporation at the end of a fiscal year that is a personal-use property of the corporation is established by it to have become a bad debt in the fiscal year,

Where debt personal-use property

- (a) it shall be deemed to have disposed of it at the end of the fiscal year for proceeds equal to the amount, if any, by which,
 - (i) its adjusted cost base to it immediately before the end of the fiscal year,

exceeds

(ii) the amount of its gain, if any, from the disposition of the personal-use property the proceeds of disposition of which included the debt; and

(b) it shall be deemed to have reacquired the debt immediately after the end of the fiscal year at a cost equal to the amount of the proceeds determined under clause *a*. *New.*

Convertible
bonds

53. Where shares of the capital stock of a corporation have, after 1971, been acquired by a person in exchange for a preferred share, bond, debenture or note of the corporation, in this section referred to as a “convertible property”, the terms of which conferred upon the holder the right to make the exchange,

(a) the exchange shall be deemed not to have been a disposition of property; and

(b) the cost to the person of the shares shall be deemed to be the adjusted cost base to him of the convertible property immediately before the exchange. *New.*

Cost of
certain
property
value of
which
included in
income

54.—(1) For the purposes of this Subdivision, where a corporation has acquired property after 1971 and an amount in respect of the value thereof has been included in computing the corporation’s income, the amount so included shall be added in computing the cost to it of that property.

Cost of
property
received
as dividend
in kind

(2) Where any property has, after 1971, been received by a shareholder of a corporation at any time as, on account or in lieu of payment of, or in satisfaction of, a dividend payable in kind, other than a stock dividend, in respect of a share owned by him of the capital stock of the corporation, he shall be deemed to have acquired the property at a cost to him equal to its fair market value at that time, and the corporation shall be deemed to have disposed of the property at that time for proceeds equal to that fair market value.

Cost of
stock
dividend

(3) Where a corporation that is a shareholder of another corporation has, after 1971, received a stock dividend in respect of a share owned by it of the capital stock of the other corporation, it shall be deemed to have acquired the share or shares received by it as a stock dividend at a cost to it equal to the amount of the stock dividend.

Cost of
property
acquired
as prize

(4) Where any property has been acquired by a corporation at any time after 1971 as a prize in connection with a lottery scheme, it shall be deemed to have acquired the property at a cost to it equal to its fair market value at that time.

(5) Where any property has, after 1971, been transferred to a beneficiary by a trustee under an employees profit sharing plan,

Cost of
property
transferred
by trustee
under
employees
profit
sharing plan

(a) subsection 1 does not apply in respect of the property; and

(b) the beneficiary shall be deemed to have acquired the property at a cost to him equal to its fair market value at the time of the transfer. *New.*

55.—(1) In computing the adjusted cost base to a corporation of property at any time, there shall be added to the cost to the corporation of the property such of the following amounts in respect of the property as are applicable,

Adjustments
to cost base

(a) any amount determined by subsection 3 of section 42 to be a gain of the corporation for a fiscal year from a disposition before that time of the property;

(b) where the property is a share of the capital stock of another corporation resident in Canada, the amount of any dividend on the share deemed by subsection 1 of section 78 to have been received by the corporation before that time;

(c) where the property is a share of the capital stock of another corporation resident in Canada, and the corporation has, after 1971, made a contribution of capital to that other corporation otherwise than by way of loan, that proportion of such part of the amount of the contribution as cannot reasonably be regarded as a gift made to or for the benefit of any other shareholder of the other corporation who was related to the corporation that,

(i) the amount that may reasonably be regarded as the increase in the fair market value, as a result of the contribution, of the share,

is of

(ii) the amount that may reasonably be regarded as the increase in the fair market value, as a result of the contribution, of all shares of the capital stock of the other corporation owned by the corporation immediately after the contribution;

(d) where the property is an interest in a partnership,

- (i) an amount in respect of each fiscal year of the partnership ending after 1971 and before that time, equal to the aggregate of all amounts each of which is the corporation's share of the income of the partnership from any source for that fiscal year, computed as if this Act were read without reference to,
 - (A) the references in section 18, clause *a* of section 40 and subsection 1 of section 43 to "one-half", and
 - (B) clause *h* of this subsection, section 57 and subsection 2 of section 75,
- (ii) the corporation's share of any capital dividends received by the partnership before that time on shares of the capital stock of another corporation that were partnership property;
- (iii) the corporation's share of the amount, if any, by which,
 - (A) any proceeds of a life insurance policy received by the partnership after 1971 and before that time in consequence of the death of any person whose life was insured under the policy,

exceeds

 - (B) all amounts paid as or on account of premiums under the policy, and
- (iv) where the corporation has, after 1971, made a contribution of capital to the partnership otherwise than by way of loan, such part of the amount of the contribution as cannot reasonably be regarded as a gift made to or for the benefit of any other member of the partnership who was related to the corporation;
- (e) where the property is substituted property of the corporation within the meaning of clause *j* of section 56, the amount of the loss that was, by virtue of the acquisition by the corporation of the property, a superficial loss of any corporation;
- (f) where the property is a bond, debenture, bill, note, mortgage, hypothec or similar obligation, the amount, if any, by which the principal amount of the obligation

exceeds the amount for which the obligation was issued, if such excess was required by subsection 2 or 3 of section 20 to be included in computing the income of the corporation for a fiscal year commencing before that time;

(g) where the property is land of the corporation, any amount paid by it after 1971 and before that time pursuant to a legal obligation to pay,

(i) interest on borrowed money used to acquire the land, or on an amount payable by it for the land, or

(ii) property taxes, not including income or profits taxes or taxes imposed by reference to the transfer of property, paid by it in respect of the property to a province or to a Canadian municipality,

to the extent that that amount was, by virtue of subsection 2 of section 22, not deductible in computing the corporation's income from the land or from a business for any fiscal year commencing before that time;

(h) where the property is land used in a farming business carried on by the corporation, an amount in respect of each fiscal year ending after 1971 and commencing before that time, equal to the corporation's loss, if any, for that fiscal year from the farming business, to the extent that such loss,

(i) was not, by virtue of section 33, deductible in computing the corporation's income for that year,

(ii) was not deductible in computing the corporation's taxable income for the fiscal year in which the corporation disposed of the property or any previous fiscal year,

(iii) did not exceed the aggregate of,

(A) taxes, other than income or profits taxes or taxes imposed by reference to the transfer of the property, paid by the corporation in that fiscal year or payable by the corporation in respect of that fiscal year to a province or a

Canadian municipality in respect of the property, and

- (B) interest, paid by the corporation in that fiscal year or payable by the corporation in respect of that fiscal year, pursuant to a legal obligation to pay interest on borrowed money used to acquire the property or on any amount as consideration payable for the property,

to the extent that such taxes and interest were included in computing the loss, and

- (iv) did not exceed the remainder obtained when,

- (A) the aggregate of each of the corporation's losses from the farming business for fiscal years preceding that fiscal year, to the extent that they are required by this clause to be added in computing the corporation's adjusted cost base of the property,

is deducted from

- (B) the amount, if any, by which the corporation's proceeds of disposition of the property exceed the adjusted cost base to the corporation of the property immediately before that time, determined without reference to this clause;

- (i) where the property is a foreign resource property, such part of the foreign exploration and development expenses incurred by the corporation after 1971 with respect to such property that is not allowed as a deduction from income for the purposes of this Act.

Amounts
to be
deducted

- (2) In computing the adjusted cost base to a corporation of property at any time there shall be deducted such of the following amounts in respect of the property as are applicable,

- (a) where the property is a share of the capital stock of another corporation resident in Canada,

- (i) any amount received by the corporation after 1971 and before that time as, on account or in lieu of payment of, or in satisfaction of, a

dividend on the share, other than a taxable dividend or capital dividend,

- (ii) an amount in respect of any taxable dividend on the share received by the corporation after 1971 and before that time, on any portion of which tax under Part VII of the *Income Tax Act* (Canada) was payable by the corporation equal to the amount by which that portion exceeds the tax under Part VII of the *Income Tax Act* (Canada) payable thereon,^{1970-71, c. 63 (Can.)}

- (iii) an amount in respect of any taxable dividend on the share received by the corporation after 1971 and before that time while it was not resident in Canada in respect of which tax under Part VIII of the *Income Tax Act* (Canada) was payable by the payor corporation, equal to the amount, if any, by which,

- (A) that proportion of the dividend that such part of all dividends that were paid by the payor corporation at the time the dividend was paid as was paid out of designated surplus, within the meaning of Part VII of the *Income Tax Act* (Canada), is of all dividends that were paid by the payor corporation at the time the dividend was paid,

exceeds

- (B) such part of any tax under Part XIII of the *Income Tax Act* (Canada) that was payable by the corporation on the dividend as may reasonably be considered to have been payable on the proportion of the dividend described in sub-subclause A, and
- (iv) any amount received by the corporation after 1971 and before that time on a reduction of the paid-up capital of the payor corporation in respect of the share except to the extent that that amount is deemed by subsection 4 of section 78 to be a dividend received by the corporation;

- (b) where the property is an interest in a partnership,

- (i) an amount in respect of each fiscal year of the partnership ending after 1971 and before that time, equal to the aggregate of amounts each of which is the corporation's share of any loss of the partnership from any source for that fiscal period, computed as if this Act were read without reference to,
 - (A) the references in section 18 and clause *b* of section 40 to "one-half", and
 - (B) section 33, subsection 2 of section 42 and section 57,
 - (ii) an amount in respect of each fiscal year of the partnership ending after 1971 and before that time, equal to the corporation's share of the aggregate of,
 - (A) amounts that, but for clause *d* of subsection 1 of section 85 would be deductible in computing the income of the partnership for the fiscal year by virtue of subsection 1 of section 62 or the provisions of the *Corporations Tax Application Rules, 1972* relating to Canadian exploration and development expenses, and
 - (B) the Canadian exploration and development expenses, within the meaning assigned by subsection 12 of section 63, if any, incurred by the partnership in the fiscal year,
 - (iii) any amount deemed by subsection 3 of section 98 to have been a gift made by the corporation by virtue of its membership in the partnership at the end of any fiscal year of the partnership ending before that time,
 - (iv) any amount received by the corporation after 1971 and before that time as, on account or in lieu of payment of, or in satisfaction of, a distribution of the corporation's share of the partnership profits or partnership capital;
- (c) where the property is such that the corporation has, after 1971 and before that time, disposed of a part of it while retaining another part of it, the amount

determined under section 45 to be the adjusted cost base to the corporation of the part so disposed of;

- (d) where the property is a share, or an interest therein or right thereto, of the capital stock of another corporation, the amount paid by the corporation therefor, to the extent that the amount was paid pursuant to an agreement described in subclause v of clause *b* of subsection 12 of section 63;
- (e) where the property was received by the corporation as consideration for any payment,
 - (i) made by the corporation as a shareholder corporation, within the meaning assigned by subsection 12 of section 63, to a joint exploration corporation of the shareholder, and
 - (ii) described in subclause i of clause *a* of subsection 12 of section 63,

such portion of the payment as may reasonably be considered to be related to an agreed portion within the meaning assigned by clause *a* of subsection 12 of section 63, of the joint exploration corporation's Canadian exploration and development expenses;

- (f) where section 71 is applicable in respect of the corporation, the amount, if any, by which the adjusted cost base to the corporation of the property is required in prescribed manner to be reduced before that time;
- (g) where the property is,
 - (i) a capital interest in a trust that was purchased by the corporation, or
 - (ii) a unit of a unit trust,

any amount paid to the corporation by the trust after 1971 and before that time as, on account or in lieu of payment of, or in satisfaction of a distribution or payment of capital, otherwise than as proceeds of disposition of the interest or unit, as the case may be, or of a part thereof;

- (h) where the property is a capital interest in a trust, other than a unit trust, not resident in Canada that was purchased after 1971 by the corporation from a

non-resident person at a time when the fair market value of such of the properties of the trust as were taxable Canadian properties was not less than 50 per cent of the aggregate of the fair market value of all properties of the trust and the amount of any money of the trust on hand, that proportion of the amount, if any, by which,

- (i) the fair market value at that time of such of the properties of the trust as were taxable Canadian properties,

exceeds

- (ii) the aggregate of the adjusted cost bases to the trust at that time of such of the properties of the trust as were taxable Canadian properties, that the fair market value at that time of the interest is of the fair market value at that time of all capital interests in the trust;

- (i) where the property is a unit of a unit trust not resident in Canada that was purchased after 1971 by the corporation from a non-resident person at a time when the fair market value of such of the properties of the trust as were taxable Canadian properties was not less than 50 per cent of the aggregate of the fair market value of all properties of the trust and the amount of any money of the trust on hand, that proportion of the amount, if any, by which,

- (i) the fair market value at that time of such of the properties of the trust as were taxable Canadian properties,

exceeds

- (ii) the aggregate of the adjusted cost bases to the trust at that time of such of the properties of the trust as were taxable Canadian properties,

that the fair market value at that time of the unit is of the fair market value at that time of all of the issued units of the trust;

- (j) any grant, subsidy or other assistance from a government, municipality or other public authority received by the corporation for or in respect of the acquisition by it after 1971 of the property;

- (k) where the property is a bond, debenture or similar security, other than an income bond or income debenture, any amount that was deductible by virtue of subsection 12 of section 24 in computing the corporation's income for any fiscal year commencing before that time in respect of interest thereon; and
- (l) such part of the cost to the corporation of the property as was deductible, otherwise than by virtue of this Subdivision, in computing the corporation's income for any fiscal year commencing before that time.

(3) For the purposes of clauses *h* and *i* of subsection 2, ^{Application of cls. *h* and *i* of subs. 2} where any property of a trust would, at a particular time have been a taxable Canadian property of the trust if it had been disposed of by the trust at that time, the property shall be deemed to have been a taxable Canadian property of the trust at that time. *New.*

56. In this Subdivision,

Interpretation

- (a) "adjusted cost base" to a corporation of any property at any time means, except as otherwise provided,
 - (i) where the property is depreciable property of the corporation, the capital cost to it of the property as of that time, and
 - (ii) in any other case, the cost to the corporation of the property adjusted, as of that time, in accordance with section 55,
 except that
 - (iii) for greater certainty, where any property of the corporation is property that was reacquired by it after having been previously disposed of by it, no adjustment to the cost to it of the property that was required to be made under section 55 before its reacquisition by it shall be made under that section to the cost to it of the property as reacquired property of the corporation, and
 - (iv) in no case shall the adjusted cost base of any property at the time of its disposition by the corporation be less than nil;
- (b) "capital property" of a corporation means,

- (i) any depreciable property of the corporation, and

- (ii) any property, other than depreciable property, any gain or loss from the disposition of which would, if the property were disposed of, be a capital gain or a capital loss, as the case may be, of the corporation;
- (c) "disposition" of any property except as expressly otherwise provided, includes,
 - (i) any transaction or event entitling a corporation to proceeds of disposition of property,
 - (ii) any transaction or event by which,
 - (A) any property of a corporation that is a share, bond, debenture, note, certificate, mortgage, hypothec, agreement of sale or similar property, or an interest therein, is redeemed in whole or in part or is cancelled,
 - (B) any debt owing to a corporation or any other right of a corporation to receive an amount is settled or cancelled,
 - (C) any share owned by a corporation is converted by virtue of an amalgamation, or
 - (D) any option held by a corporation to acquire or dispose of property expires, and
 - (iii) any transfer of property to a trust, or any transfer of property of a trust to any beneficiary under the trust, except as provided in clause *v*,

but, for greater certainty, does not include,

- (iv) any transfer of property for the purpose only of securing a debt or a loan, or any transfer by a creditor for the purpose only of returning property that had been used as security for a debt or a loan,
- (v) any transfer of property by virtue of which there is a change in the legal ownership of the property without any change in the beneficial ownership thereof,

- (vi) any issue by a corporation of a bond, debenture, note, certificate, mortgage or hypothec of the corporation, or
 - (vii) any issue by a corporation of a share of its capital stock, or any other transaction that, but for this clause, would be a disposition by a corporation of a share of its capital stock;
- (d) “eligible capital property” of a corporation means any property, one-half of any amount payable to the corporation as consideration for the disposition of which would, if it disposed of the property, be an eligible capital amount in respect of a business within the meaning given that expression in subsection 1 of section 18;
- (e) “foreign exploration and development expenses” incurred by a corporation means,
- (i) any drilling or exploration expense, including any general geological or geophysical expense, incurred by it on or in respect of exploring or drilling for petroleum or natural gas outside Canada,
 - (ii) any prospecting, exploration or development expense incurred by it in searching for minerals outside Canada,
 - (iii) its share of the foreign exploration and development expenses incurred by any association, partnership or syndicate in a fiscal year thereof, if at the end of that fiscal year it was a member or partner thereof;
- (f) “foreign resource property” of a corporation means any property that would be a Canadian resource property of the corporation if clause *c* of subsection 12 of section 63 were read as if the references therein to “in Canada” were read as references to “outside Canada”, and were read without reference to the words “after 1971”;
- (g) “listed personal property” of a corporation means its personal-use property that is all or any portion of, or any interest in or right to, any,
- (i) print, etching, drawing, painting, sculpture, or other similar work of art,

- (ii) jewellery,
 - (iii) rare folio, rare manuscript, or rare book,
 - (iv) stamp, or
 - (v) coin;
- (h) “personal-use property” of a corporation includes,
- (i) property owned by it that is used primarily for the personal use or enjoyment of one or more individuals each of whom is,
 - (A) a person related to the corporation, or
 - (B) where the corporation is a trust, a beneficiary under a trust or any person related to the beneficiary,
 - (ii) any debt owing to the corporation in respect of the disposition of property that was its personal-use property, and
 - (iii) any property of the corporation that is an option to acquire property that would if it acquired it, be personal-use property of the corporation,

and “personal-use property” of a partnership includes any partnership property that is used primarily for the personal use or enjoyment of any member of the partnership or for the personal use or enjoyment of one or more persons each of whom is a member of the partnership or a person related to such a member;

- (i) “proceeds of disposition” of property includes,
- (i) the sale price of property that has been sold,
 - (ii) compensation for property unlawfully taken,
 - (iii) compensation for property destroyed, and any amount payable under a policy of insurance in respect of loss or destruction of property,
 - (iv) compensation for property taken under statutory authority or the sale price of property sold to a person by whom notice of an intention to take it under statutory authority was given,

- (v) compensation for property injuriously affected, whether lawfully or unlawfully or under statutory authority or otherwise,
- (vi) compensation for property damaged and any amount payable under a policy of insurance in respect of damage to property, except to the extent that such compensation or amount, as the case may be, has within a reasonable time after the damage been expended on repairing the damage,
- (vii) an amount by which the liability of a corporation to a mortgagee is reduced as a result of the sale of mortgaged property under a provision of the mortgage, plus any amount received by the corporation out of the proceeds of such sale, and
- (viii) any amount included in computing a corporation's proceeds of disposition of the property by virtue of clause *c* of section 70,

but, notwithstanding any other provision of this Part, does not include any amount that would otherwise be proceeds of disposition of a share to the extent that such amount is deemed by subsection 2 or 3 of section 78 to be a dividend; and

- (j) "superficial loss" of a corporation means its loss from the disposition of a property in any case where,
 - (i) the same or identical property, in this clause referred to as "substituted property", was acquired, during the period beginning thirty days before the disposition and ending thirty days after the disposition, by the corporation, or a corporation controlled, whether directly or indirectly in any manner whatever, by it, and
 - (ii) at the end of the period referred to in subclause i the corporation, or the corporation controlled, whether directly or indirectly in any manner whatever, as the case may be, owned the substituted property,

except that a loss otherwise described in this clause shall be deemed not to be a superficial loss if the disposition giving rise to the loss,

- (iii) was a disposition deemed by section 50 to have been made,
- (iv) was the expiry of an option, or
- (v) was a disposition of property by the corporation to which subsection 4 of section 79 applies.

Avoidance

57. For the purposes of this subdivision, where the result of one or more sales, exchanges, declarations of trust, or other transactions of any kind whatever is that a corporation has disposed of property under circumstances such that it may reasonably be considered to have artificially or unduly,

- (a) reduced the amount of its gain from the disposition;
- (b) created a loss from the disposition; or
- (c) increased the amount of its loss from the disposition,

the corporation's gain or loss, as the case may be, from the disposition of the property shall be computed as if such reduction, creation or increase, as the case may be, had not occurred. *New.*

SUBDIVISION C—OTHER SOURCES OF INCOME

Amounts to be included in income for year

58.—(1) Without restricting the generality of section 12, there shall be included in computing the income of a corporation for a fiscal year,

Pension benefits

- (a) any amount received in the fiscal year as, on account or in lieu of payment of, or in satisfaction of a superannuation or pension benefit;

Annuity payments

- (b) any amount received by the corporation in the fiscal year as an annuity payment except to the extent that the payment is otherwise required to be included in computing the corporation's income for the fiscal year;

Deferred profit sharing plan

- (c) amounts received by the corporation in the fiscal year under a deferred profit sharing plan as provided by section 120;

Life insurance policy proceeds

- (d) amounts that the corporation became entitled to receive in the fiscal year upon the disposition of an interest in a life insurance policy, to the extent provided by section 148 of the *Income Tax Act* (Canada);

1970-71,
c. 63 (Can.)

(e) amounts allocated to the corporation in the fiscal year by an insurer as provided by paragraph *b* of subsection 1 of section 148 of the *Income Tax Act* (Canada); ^{Allocations under insurance policies 1970-71, c. 63 (Can.)}

(f) amounts received by the corporation in the fiscal year as legal costs awarded to it by a court on an appeal in relation to an assessment of tax, interest or penalties under this Act or the *Income Tax Act* (Canada), if with respect to that assessment an amount has been deducted or may be deductible under clause *b* of subsection 1 of section 60 in computing its income; ^{Legal costs}

(g) the amount, if any, by which any grant received by the corporation in the fiscal year to enable it to carry on research or any similar work exceeds the aggregate of expenses incurred by it in the fiscal year for the purpose of carrying on the work, other than, ^{Research grants}

(i) expenses in respect of which the corporation has been reimbursed, or

(ii) expenses that are otherwise deductible in computing the corporation's income for the fiscal year. R.S.O. 1970, c. 91, s. 17, *amended*.

(2) A payment or transfer of property made pursuant to the direction of, or with the concurrence of, a corporation to some other person for the benefit of the corporation or as a benefit that the corporation desired to have conferred on the other person shall be included in computing the corporation's income to the extent that it would be if the payment or transfer had been made to the corporation. R.S.O. 1970, c. 91, s. 27 (1). ^{Indirect payments}

(3) For the purpose of this Part, a payment or transfer in a fiscal year of property made to the corporation or some other person for the benefit of the corporation and other persons jointly or a profit made by the corporation and other persons jointly in a fiscal year shall be deemed to have been received by the corporation in the fiscal year to the extent of the corporation's interest therein notwithstanding that there was no distribution or division thereof in that fiscal year. R.S.O. 1970, c. 91, s. 27 (2). ^{Undistributed payments or profits}

(4) Where a corporation has, at any time before the end of a fiscal year, whether before or after the end of 1971, transferred or assigned to a person with whom it was not dealing at arm's length the right to an amount that would, ^{Transfer of rights to income}

if the right thereto had not been so transferred or assigned be included in computing the corporation's income for the fiscal year because the amount would have been received or receivable by the corporation in or in respect of the fiscal year, the amount shall be included in computing the corporation's income for the fiscal year unless the income is from property and the corporation has also transferred or assigned the property. R.S.O. 1970, c. 91, s. 33, *amended*.

Amount
receivable
as consid-
eration for
disposition
of resource
property

59.—(1) Where in a fiscal year a corporation disposes of,

- (a) a Canadian resource property; or
- (b) any right, licence or privilege described in subsection 12 of section 58 of *The Corporations Tax Act*, as it read in its application to the 1971 fiscal year, that was acquired by the corporation,

(i) in the case of,

- (A) a corporation that is a principal-business corporation within the meaning given to that expression by subsection 12 of section 63 or that was, at the time it acquired the property, such a principal-business corporation, or
- (B) an association, partnership or syndicate described in subsection 4 of section 83A of the *Income Tax Act* (Canada) as it read in its application to the 1971 fiscal year,

before 1972, and

- (ii) in any other case, after April 10, 1962 and before 1972,

under an agreement or other contract or arrangement described therein,

the amount receivable by the corporation as consideration for the disposition thereof shall be included in computing the corporation's income for the fiscal year, notwithstanding that the amount of any part thereof may not be received until a subsequent fiscal year. R.S.O. 1970, c. 91, s. 58 (15).

Amount
deducted
under s.
61 in pre-
ceding year

(2) There shall be included in computing a corporation's income for a fiscal year any amount in respect of,

- (a) a Canadian resource property; or

- (b) any property referred to in clause *b* of subsection 1 or clause *a* of subsection 3,

that has been deducted under section 61 in computing the corporation's income for the immediately preceding fiscal year.
New.

(3) Where a corporation has made a disposition after 1971 of property owned by it on December 31, 1971, that, Disposition of resource property acquired before 1972

- (a) is property described in any of subclauses i to vi of clause *c* of subsection 12 of section 63 and is not property described in clause *b* of subsection 1,

the following rules apply,

- (b) the relevant percentage of the amount receivable by the corporation as consideration for the disposition thereof shall be included in computing the corporation's income for its fiscal year in which the disposition was made, notwithstanding that the amount or any part thereof may not be received until a subsequent fiscal year; and
- (c) where the corporation and the person who acquired the property were not dealing with each other at arm's length, for the purposes of this section, sections 61 and 63,
- (i) the cost to that person of the property shall be deemed to be the amount included in the corporation's income by virtue of clause *b* in respect of the disposition by the corporation of the property, and
- (ii) when that person subsequently disposes of the property or any right or interest therein, the amount receivable by that person as consideration for the disposition shall be deemed to be the relevant percentage of the amount actually receivable by that person as consideration therefor. *New.*

(4) For the purposes of clauses *b* and *c* of subsection 3, the "relevant percentage" of any amount receivable as consideration for the disposition of property is 60 per cent plus the percentage, not exceeding 40 per cent, obtained when 5 per cent is multiplied by the number of full calendar years in the period commencing at the end of 1972 and ending with the end of the calendar year in which the disposition was made.
New. Determination of "relevant percentage"

Interpre-
tation

(5) In this section, "Canadian resource property" has the meaning assigned to that expression by section 63. *New.*

SUBDIVISION D—DEDUCTIONS IN COMPUTING INCOME

Other
deduc-
tions

60.—(1) There may be deducted in computing a corporation's income for a fiscal year such of the following amounts as are applicable,

Capital
element
of annuity
payments

(a) the capital element of each annuity payment, other than a superannuation or pension benefit, a payment under a registered retirement savings plan, or a payment of an annuity paid or purchased pursuant to a deferred profit sharing plan, included in computing the corporation's income for the fiscal year, that is to say,

(i) if the annuity was paid under a contract, an amount equal to that part of the payment determined in prescribed manner to have been a return of capital, and

(ii) if the annuity was paid under a will or trust, such part of the payment as can be established by the recipient not to have been paid out of the income of the estate or trust; R.S.O. 1970, c. 91, s. 23 (1) (g).

Expenses
of objec-
tion or
appeal1970-71,
c. 63 (Can.)

(b) amounts paid by the corporation in the fiscal year in respect of fees or expenses incurred in preparing, instituting or prosecuting an objection to, or an appeal in relation to, an assessment of tax, interest or penalties under this Act or the *Income Tax Act* (Canada); R.S.O. 1970, c. 91, s. 23 (1) (w).

Corpora-
tion tax

(c) all corporation taxes payable in the fiscal year by the corporation. R.S.O. 1970, c. 91, s. 23 (12).

Interpre-
tation

(2) In clause *c* of subsection 1 and in this subsection,

(a) "corporation tax" means a tax imposed by the Legislature of a province or by a municipality in the province that is declared by the regulations to be a tax on corporations, but does not include,

(i) a corporation income tax, or

(ii) any other tax declared by the regulations not to be a corporation tax;

- (b) "corporation income tax" means a tax imposed by the Parliament of Canada or by the Legislature of a province or by a municipality in the province that is declared by the regulations to be a tax of general application on the profits of corporations. R.S.O. 1970, c. 91, s. 23 (13).

61.—(1) In computing a corporation's income for a fiscal year, in this subsection referred to as the "current fiscal year" where,

Reserve in respect of consideration for disposition of resource property not receivable until subsequent year

- (a) by virtue of subsection 1 or 3 of section 59, an amount has been included in computing the corporation's income for the current fiscal year or a previous fiscal year; or

- (b) by virtue of subsection 15 or 16 of section 58 of *The Corporations Tax Act* as it read in its application to a fiscal year before the 1972 fiscal year, an amount has been included in computing the corporation's income for that previous fiscal year,

R.S.O. 1970, c. 91

in respect of the disposition of any property and that amount or a part thereof is not receivable until a day that is after the end of the current fiscal year, there may be deducted as a reserve in respect of that amount the part thereof that is not receivable until a day that is after the end of the current fiscal year, not exceeding, where the property was disposed of in a fiscal year preceding the current fiscal year, any amount deducted under this subsection in respect of the disposition of the property in computing the corporation's income for the fiscal year immediately preceding the current fiscal year, and for greater certainty, no deduction may be made in respect of that amount by virtue of clause *p* of subsection 1 of section 24. R.S.O. 1970, c. 91, s. 61 (1).

(2) Subsection 1 does not apply to allow a deduction in computing the income of a corporation for a fiscal year if the corporation, at any time in the fiscal year or in the immediately following fiscal year,

Application of subs. 1

- (a) ceases to be a resident of Canada;
- (b) becomes exempt from tax under any provision of this Part; or
- (c) if a non-resident ceases to have a permanent establishment in Canada. R.S.O. 1970, c. 91, s. 61 (8).

Allowance
for oil
or gas
well, mine or
timber limit

62.—(1) There may be deducted in computing a corporation's income for a fiscal year such amount as an allowance in respect of an oil or gas well, mine or timber limit, if any, as is allowed to the corporation by regulation. R.S.O. 1970, c. 91, s. 23 (2) (b).

Regulations

(2) For greater certainty it is hereby declared that, in the case of a regulation made under subsection 1 allowing to a corporation an amount in respect of an oil or gas well or a mine,

- (a) there may be allowed to the corporation by such regulation an amount in respect of any or all oil or gas wells or mines in which the corporation has any interest; and
- (b) notwithstanding any other provision contained in this Act, the Lieutenant Governor in Council may prescribe the formula by which the amount that may be allowed to the corporation by such regulation shall be determined. R.S.O. 1970, c. 91, s. 23 (4).

Lessee's
share of
allowance

(3) Where a deduction is allowed under subsection 1 in respect of a coal mine operated by a lessee, the lessor and lessee may agree as to what portion of the allowance each may deduct and, in the event that they cannot agree, the Minister may fix the portions. R.S.O. 1970, c. 91, s. 23 (5).

Exploration
and develop-
ment ex-
penses of
principal-
business
corporations

63.—(1) A principal-business corporation may deduct, in computing its income for a fiscal year, the lesser of,

- (a) the aggregate of such of its Canadian exploration and development expenses as were incurred by it before the end of the fiscal year, to the extent that they were not deductible in computing income for a previous fiscal year; and
- (b) of that aggregate, an amount equal to its income for the fiscal year if no deduction were allowed under this section or section 62, minus the deductions allowed for the fiscal year by subsections 2, 5 and 6 and by section 100. R.S.O. 1970, c. 91, s. 58 (5).

Expenses
of special
product
corporations

(2) A corporation, other than a principal-business corporation the principal business of which is described in subclauses i or ii of clause f of subsection 12, whose principal business is production or marketing of sodium chloride or potash or whose business includes manufacturing products the manufacturing of which involves processing sodium chloride or potash, may deduct, in computing its income for a fiscal year,

the drilling and exploration expenses incurred by it in the year on or in respect of exploring or drilling for halite or sylvite. R.S.O. 1970, c. 91, s. 58 (4).

(3) A corporation other than a principal-business corpora- ^{Expenses}
tion may deduct, in computing its income for a fiscal year, ^{of other}
the lesser of, ^{taxpayers}

(a) the aggregate of such of its Canadian exploration and development expenses as were incurred by it before the end of the fiscal year to the extent they were not deductible in computing its income for a previous fiscal year; and

(b) of that aggregate, the amount, if any, by which the greater of,

(i) such amount as the corporation may claim, not exceeding 20 per cent of the aggregate determined under clause *a*, and

(ii) the aggregate of,

(A) its income for the fiscal year from operating an oil or gas well in Canada or from operating a mine in Canada, if the corporation had an interest in the oil or gas well, or mine, as the case may be, at any time in the fiscal year,

(B) its income for the fiscal year from royalties in respect of an oil or gas well in Canada or a mine in Canada, and

(C) the aggregate of amounts each of which is an amount, in respect of a Canadian resource property or a property referred to in clause *b* of subsection 1 of section 59 or clause *a* of subsection 3 of section 59 that has been disposed of by it, equal to the amount, if any, by which,

1. the amount included in computing its income for the fiscal year by virtue of section 59 in respect of the disposition of the property,

exceeds,

2. the amount deducted under section 61 in respect of the property in computing its income for the fiscal year,

if no deductions were allowed under section 62,

exceeds,

- (iii) the amount of any deduction allowed by the *Corporations Tax Application Rules, 1972* in respect of this subclause in computing the income for the fiscal year. R.S.O. 1970, c. 91, s. 58 (10).

Dealers

(4) Sections 59 and 61 and subsection 3 do not apply in computing the income for a fiscal year under this Part of a corporation, other than a principal-business corporation, whose business includes trading or dealing in rights, licences or privileges to explore for, drill for or take minerals, petroleum, natural gas or other related hydrocarbons. R.S.O. 1970, c. 91, s. 58 (19).

Successor corporation's Canadian exploration and development expenses

(5) Where a principal-business corporation, in this subsection referred to as the "successor corporation", has, at any time after 1971, acquired from another principal-business corporation, in this subsection referred to as the "predecessor corporation", all or substantially all of the property of the predecessor corporation used by it in carrying on in Canada its principal business, there may be deducted by the successor corporation, in computing its income under this Part for a fiscal year, the lesser of,

- (a) the aggregate of the Canadian exploration and development expenses incurred by the predecessor corporation to the extent that such expenses,

- (i) were not deductible by the successor corporation in computing its income for a previous fiscal year, and were not deductible by the predecessor corporation in computing its income for the fiscal year in which the property so acquired was acquired by the successor corporation or its income for a previous fiscal year, and

- (ii) would have been deductible by the predecessor corporation in computing its income for the fiscal year in which the property so acquired was acquired by the successor corporation, if

the predecessor corporation's income for that fiscal year had been sufficient for the purpose; and

- (b) of that aggregate, an amount equal to such part of its income for the fiscal year if no deduction were allowed under this section, section 62 or the *Corporations Tax Application Rules, 1972* in respect of this clause, minus any deductions allowed for the fiscal year by subsections 2 and 6, section 100 and the provisions of the *Corporations Tax Application Rules, 1972* allowing a deduction for the purposes of this clause, as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells, or the production of minerals from mines, situated on property in Canada from which the predecessor corporation had, immediately before the acquisition by the successor corporation of the property so acquired, a right to take or remove petroleum or natural gas or a right to take or remove minerals,

and, in respect of any such expenses included in the aggregate determined under clause *a*, no deduction may be made under this section by the predecessor corporation in computing its income for a fiscal year subsequent to its fiscal year in which the property so acquired was acquired by the successor corporation. R.S.O. 1970, c. 91, s. 58 (23).

(6) Where a principal-business corporation, in this subsection referred to as the "second successor corporation", has at any time after 1971 acquired from a corporation, in this subsection referred to as the "first successor corporation", that was a successor corporation within the meaning of subsection 5, all or substantially all of the property of the first successor corporation used by it in carrying on in Canada its principal business, there may be deducted by the second successor corporation, in computing its income under this Part for a fiscal year, the lesser of,

- (a) the aggregate determined by adding the expenses referred to in clause *a* of subsection 5 for the purpose of determining the deduction allowable to the first successor corporation under subsection 5 in computing its income for a previous fiscal year, to the extent that such expenses,
- (i) were not deductible by the second successor corporation or any other corporation in computing its income for a previous fiscal

year, and were not deductible by the first successor corporation in computing its income for the fiscal year in which the property so acquired was acquired by the second successor corporation, and

- (ii) would, but for the provisions of clause *b* of subsection 5, have been deductible by the first successor corporation in computing its income for the fiscal year in which the property so acquired was acquired by the second successor corporation; and
- (b) of that aggregate, an amount equal to such part of its income for the fiscal year if no deduction were allowed under this section or section 62 or the *Corporations Tax Application Rules, 1972* in respect of this clause, minus any deductions allowed for the fiscal year by subsection 2, section 100 and the provisions of the *Corporations Tax Application Rules, 1972* allowing a deduction for the purposes of this clause, as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells, or the production of minerals from mines, situated on property in Canada from which the predecessor of the first successor corporation within the meaning of subsection 5 had, immediately before the acquisition by the first successor corporation of the property so acquired by the second successor corporation, a right to take or remove petroleum or natural gas or a right to take or remove minerals,

and, in respect of any such expenses included in the aggregate determined under clause *a*, no deduction may be made under this section by the first successor corporation in computing its income for a fiscal year subsequent to its fiscal year in which the property so acquired was acquired by the second successor corporation. R.S.O. 1970, c. 91, s. 58 (27).

Joint
exploration
corporation

(7) A joint exploration corporation may in a fiscal year elect in prescribed form to renounce in favour of another corporation that is a principal-business corporation an agreed portion of the aggregate of such of the joint exploration corporation's Canadian exploration and development expenses as were incurred by it during a period, after 1971 and before the end of the fiscal year, throughout which the other corporation was a shareholder corporation, to the extent that the aggregate of such expenses exceeds any amount deductible under subsection 1 in respect thereof by the joint exploration

corporation in computing its income for any fiscal year previous to the fiscal year in which the election was made, and upon the election the said agreed portion,

- (a) shall be deemed, for the purpose of subsection 1, to be Canadian exploration and development expenses incurred by the other corporation in the fiscal year of the corporation in which the election was made; and
- (b) shall be subtracted from the aggregate described in clause a of subsection 1 in determining the amount deductible by the joint exploration corporation under subsection 1 in computing its income. R.S.O. 1970, c. 91, s. 58 (7, 8), *amended*.

(8) Where control of a corporation has, after 1971 and ^{Control change} between a time when the corporation ceased to carry on active business and a time when it commenced to carry on active business again, been acquired by,

- (a) a person; or
- (b) a person and other persons with whom that person does not deal at arm's length,

who did not control the corporation at the time when it so ceased to carry on active business, all of the Canadian exploration and development expenses incurred by the corporation before the time when it commenced to carry on active business again shall be deemed to have been deductible in computing its incomes for fiscal years ending before the time when such control was so acquired. *New*.

(9) In computing a corporation's Canadian exploration and development expenses, ^{Computation of exploration and development expenses}

- (a) there shall be deducted any amount paid to it,
 - (i) after 1971 under the *Northern Mineral Exploration Assistance Regulations* (Canada) made under an *Appropriation Act* (Canada) that provides for payments in respect of the Northern Mineral Grants Program,
 - (ii) pursuant to any agreement entered into between the corporation and Her Majesty in right of Canada under the Northern Mineral Grants Program or the Development Program of the Department of Indian Affairs and

Northern Development, to the extent that the amount has been expended by the corporation as or on account of Canadian exploration and development expenses incurred by it, or

(iii) after 1971 under the *Mineral Exploration Assistance Program* (Ontario); and

(b) there shall be included any amount, except an amount in respect of interest, paid by the corporation after 1971 under the Regulations referred to in subclause i of clause *a* to Her Majesty in right of Canada and under the *Mineral Exploration Assistance Program* (Ontario) to Her Majesty in right of Ontario. R.S.O. 1970, c. 91, s. 58 (28).

Limitation

(10) Where a corporation has incurred expenses the deduction of which from income is authorized under more than one provision of this section, the corporation is not entitled to make the deduction under more than one provision but is entitled to select the provision under which to make the deduction. R.S.O. 1970, c. 91, s. 58 (30).

Amounts
deemed
deductible
under this
Subdivision

(11) For the purposes of section 12, any amount deductible under the *Corporations Tax Application Rules, 1972* in respect of this subsection shall be deemed to be deductible under this Subdivision. *New.*

Inter-
pretation

(12) In this section,

(a) "agreed portion" in respect of a corporation that was a shareholder corporation of a joint exploration corporation means such amount as may be agreed upon between the joint exploration corporation and the shareholder corporation not exceeding,

(i) the payments referred to in subclause iii of clause *g* made by the shareholder corporation to the joint exploration corporation during the period it was a shareholder corporation of the joint corporation,

minus,

(ii) the aggregate of the amounts, if any, previously renounced by the joint exploration corporation under subsection 7 in favour of the shareholder corporation; R.S.O. 1970, c. 91, s. 58 (9) (c).

(b) "Canadian exploration and development expenses" incurred by a corporation means,

- (i) any drilling or exploration expense, including any general geological or geophysical expense, incurred by the corporation after 1971 on or in respect of exploring or drilling for petroleum or natural gas in Canada,
- (ii) any prospecting, exploration or development expense incurred by it after 1971 in searching for minerals in Canada,
- (iii) the cost to the corporation of any Canadian resource property acquired by it,
- (iv) the corporation's share of the Canadian exploration and development expenses incurred after 1971 by any association, partnership or syndicate in a fiscal year thereof, if at the end of that fiscal year the corporation was a member or partner thereof, and
- (v) where the corporation is a principal-business corporation, the amount paid by it for any share or any interest therein or right thereto, to the extent that the amount was paid pursuant to an agreement under which it undertook to incur, after 1971, the cost of,
 - (A) drilling or exploration activities, including any general geological or geophysical activities, in or in respect of exploring or drilling for petroleum or natural gas in Canada,
 - (B) prospecting, exploration or development activities in searching for minerals in Canada, or
 - (C) acquiring a Canadian resource property,

but, for greater certainty, does not include,

- (vi) any consideration given by the corporation for any share or any interest therein or right thereto, except as provided by subclause v, or
- (vii) any cost described in subclause v, if the obligation of any other person to incur those

costs was, by virtue of subclause v, a Canadian exploration and development expense of that other person; *New*.

(c) "Canadian resource property" of a corporation means any property acquired by it after 1971 that is,

- (i) any right, licence or privilege to explore for, drill for, or take petroleum, natural gas or other related hydrocarbons in Canada,
- (ii) any right, licence or privilege to prospect, explore, drill, or mine for, minerals in a mineral resource in Canada,
- (iii) any oil or gas well situated in Canada,
- (iv) any rental or royalty computed by reference to the amount or value of production from an oil or gas well, or a mineral resource, situated in Canada,
- (v) any real property situated in Canada the principal value of which depends upon its mineral resource content, but not including any depreciable property situated on the surface of the property or used or to be used in connection with the extraction or removal of minerals therefrom, or
- (vi) any right to or interest in any property described in any of subclauses i to v; *New*.

(d) "drilling or exploration expense" incurred on or in respect of exploring or drilling for petroleum or natural gas includes,

- (i) any annual payment made for the preservation of a Canadian resource property or any property referred to in clause b of subsection 1 of section 59, and
- (ii) any expense incurred on or in respect of,
 - (A) drilling or converting a well for the disposal of waste liquids from a petroleum or natural gas well,
 - (B) drilling for water or gas for injection into a petroleum or natural gas formation, or

- (C) drilling or converting a well for the injection of water or gas to assist in the recovery of petroleum or natural gas from another well; R.S.O. 1970, c. 91, s. 58 (26).
- (e) "joint exploration corporation" means a principal-business corporation that has not at any time since its incorporation had more than ten shareholders, not including any individual holding a share for the sole purpose of qualifying as a director; *New*.
- (f) "principal-business corporation" means a corporation whose principal business is,
- (i) production, refining or marketing of petroleum, petroleum products or natural gas, or exploring or drilling for petroleum or natural gas,
 - (ii) mining or exploring for minerals,
 - (iii) processing mineral ores for the purpose of recovering metals therefrom,
 - (iv) a combination of,
 - (A) processing mineral ores for the purpose of recovering metals therefrom, and
 - (B) processing metals recovered from the ores so processed,
 - (v) fabricating metals, or
 - (vi) operating a pipeline for the transmission of oil or natural gas; and R.S.O. 1970, c. 91, s. 58 (5).
- (g) "shareholder corporation" of a joint exploration corporation means a corporation that for the period in respect of which the expression is being applied,
- (i) was a shareholder of the joint exploration corporation,
 - (ii) was a principal-business corporation, and
 - (iii) made payments to the joint exploration corporation in respect of Canadian exploration and development expenses incurred by the joint exploration corporation. R.S.O. 1970, c. 91, s. 58 (9).

SUBDIVISION E—RULES RELATING
TO COMPUTATION OF INCOME

General
limitation re
expenses

64. In computing income, no deduction shall be made in respect of an outlay or expense in respect of which any amount is otherwise deductible under this Act, except to the extent that the outlay or expense was reasonable in the circumstances. R.S.O. 1970, c. 91, s. 24 (2).

Amounts
in part
consideration
for disposition
of property

65. Where an amount can reasonably be regarded as being in part the consideration for the disposition of any property of a corporation and as being in part consideration for something else, the part of the amount that can reasonably be regarded as being the consideration for such disposition shall be deemed to be proceeds of disposition of that property irrespective of the form or legal effect of the contract or agreement, and the person to whom the property was disposed of shall be deemed to have acquired the property at the same part of that amount. R.S.O. 1970, c. 91, s. 32 (8) par. 7.

Inadequate
considera-
tions

66.—(1) Except as expressly otherwise provided in this Act,

(a) where a corporation has acquired anything from a person with whom it was not dealing at arm's length at an amount in excess of the fair market value thereof at the time it so acquired it, the corporation shall be deemed to have acquired it at that fair market value;

(b) where a corporation has disposed of anything,

(i) to a person with whom it was not dealing at arm's length for no proceeds or for proceeds less than the fair market value thereof at the time it so disposed of it, or

(ii) to any person by way of gift *inter vivos*,

it shall be deemed to have received proceeds of disposition therefor equal to that fair market value; and

(c) where a corporation has acquired property by way of gift, bequest or inheritance, it shall be deemed to have acquired the property at its fair market value at the time it so acquired it. R.S.O. 1970, c. 91, s. 28 (1, 2), *amended*.

(2) Where a corporation carrying on business in Canada ^{Idem} has paid or agreed to pay, to a non-resident person with whom it was not dealing at arm's length as price, rental, royalty or other payment for or for the use or reproduction of any property, or as consideration for the carriage of goods or passengers or for other services, an amount greater than the amount, in this subsection referred to as "the reasonable amount", that would have been reasonable in the circumstances if the non-resident person and the corporation had been dealing at arm's length, the reasonable amount shall, for the purpose of computing the corporation's income from the business, be deemed to have been the amount that was paid or is payable therefor. R.S.O. 1970, c. 91, s. 28 (3).

(3) Where a non-resident person had paid, or agreed to ^{Idem} pay, to a corporation carrying on business in Canada with which it was not dealing at arm's length as price, rental, royalty or other payment for or for the use or reproduction of any property, or as consideration for the carriage of goods or passengers or for other services, an amount less than the amount, in this subsection referred to as "the reasonable amount", that would have been reasonable in the circumstances if the non-resident person and the corporation had been dealing at arm's length, the reasonable amount shall, for the purpose of computing the corporation's income from the business, be deemed to have been the amount that was paid or is payable therefor. R.S.O. 1970, c. 91, s. 28 (4).

(4) Where property of a corporation has been appropriated ^{Idem} in any manner whatever to, or for the benefit of, a shareholder, for no consideration or for a consideration below the fair market value, if the sale thereof at the fair market value would have increased the corporation's income for a fiscal year, for the purpose of determining the corporation's income for the fiscal year, it shall be deemed to have sold the property during the fiscal year and to have received therefor the fair market value thereof. R.S.O. 1970, c. 91, s. 28 (5).

(5) Where property of a corporation has been appropriated ^{Idem} in any manner whatever to, or for the benefit of, a shareholder, on the winding-up of the corporation, if the sale thereof at the fair market value immediately prior to the winding-up would have increased the corporation's income for a fiscal year, for the purpose of determining the corporation's income for the fiscal year, it shall be deemed to have sold the property during the fiscal year and to have received therefor the fair market value thereof. R.S.O. 1970, c. 91, s. 28 (6).

67.—(1) Where a corporation has received a security or other right or a certificate of indebtedness or other evidence of indebtedness wholly or partially as, in lieu of payment of, or ^{Security in satisfaction of income debt}

in satisfaction of, a debt that was then payable, the amount of which debt would be included in computing its income if it had been paid, the value of the security, right or indebtedness or the applicable portion thereof shall, notwithstanding the form or legal effect of the transaction, be included in computing its income for the fiscal year in which it was received. R.S.O. 1970, c. 91, s. 34 (1).

Idem

(2) Where a security or other right or a certificate of indebtedness or other evidence of indebtedness has been received by a corporation wholly or partially as, in lieu of payment of, or in satisfaction of, a debt before the debt was payable, but was not itself payable or redeemable before the day on which the debt was payable, it shall, for the purpose of subsection 1, be deemed to have been received when the debt became payable by the person holding it at that time. R.S.O. 1970, c. 91, s. 34 (2).

Idem

(3) This section is enacted for greater certainty and shall not be construed as limiting the generality of the other provisions of this Part by which amounts are required to be included in computing income. R.S.O. 1970, c. 91, s. 34 (3).

Bond
conver-
sion

68. Where a bond of a debtor is acquired by a corporation in exchange for another bond of the same debtor and,

- (a) the terms on which the bond for which it was exchanged was issued conferred upon the holder thereof the right to make the exchange; and
- (b) the amount payable to the holder of the bond on its maturity is the same as the amount that would have been payable to the holder of the bond for which it was exchanged on the maturity of that bond,

the cost of the bond so acquired and the sale price of the bond for which it was exchanged shall be deemed to be,

- (c) in the event that the bond that was exchanged was property described in an inventory of a business carried on by the corporation, the amount at which it had been valued at the end of the last complete fiscal year of the business preceding the exchange; or
- (d) in any other event, the adjusted cost base to the corporation of the bond that was exchanged, immediately before the exchange. R.S.O. 1970, c. 91, s. 35.

69.—(1) Where an amount in respect of a deductible outlay or expense that was owing by a corporation to a person with whom the corporation was not dealing at arm's length at the time the outlay or expense was incurred and at the end of the second fiscal year following the fiscal year in which the outlay or expense was incurred, is unpaid at the end of that second fiscal year, either, Unpaid amounts

- (a) the amount so unpaid shall be included in computing the corporation's income for the third fiscal year following the fiscal year in which the outlay or expense was incurred; or
- (b) where the corporation and that person have filed an agreement in prescribed form on or before the day on or before which the corporation is required by section 145 to file its return for the third succeeding fiscal year, for the purposes of this Act the following rules apply:
 - (i) the amount so unpaid shall be deemed to have been paid by the corporation and received by that person on the first day of the said third fiscal year, and section 153 of the *Income Tax Act* (Canada), except subsection 3 thereof, is applicable to the extent that it would apply if that amount were being paid to that person by the corporation, and
 - (ii) that person shall be deemed to have made a loan to the corporation on the first day of the said third fiscal year in an amount equal to the amount so unpaid minus the amount, if any, deducted or withheld therefrom by the corporation on account of that person's tax for the said third fiscal year. R.S.O. 1970, c. 91, s. 29 (1).

(2) Where an amount in respect of a deductible outlay Idem or expense that was owing by a corporation to a person with whom the corporation was not dealing at arm's length is unpaid at the time when the corporation is wound up, and the corporation is wound up before the end of the second fiscal year following the fiscal year in which the outlay or expense was incurred, the amount so unpaid shall be included in computing the corporation's income for the fiscal year in which it is wound up. R.S.O. 1970, c. 91, s. 29 (2).

(3) Where an amount in respect of a deductible outlay or expense that was owing by a corporation to a person as salary, wages or other remuneration in respect of an office Unpaid remuneration

or employment is unpaid at the end of the first fiscal year following the fiscal year in which the outlay or expense was incurred, either,

- (a) the amount so unpaid shall be included in computing the corporation's income for the second fiscal year following the fiscal year in which the outlay or expense was incurred; or
- (b) where the corporation and that person have filed an agreement in prescribed form on or before the day on or before which the corporation is required by section 145 to file its return for the first fiscal year following the fiscal year in which the outlay or expense was incurred, for the purposes of this Act the following rules apply:
 - (i) the amount so unpaid shall be deemed to have been paid by the corporation and received by that person on the first day of the said second fiscal year, and section 153 of the *Income Tax Act* (Canada), except subsection 3 thereof, is applicable to the extent that it would apply if that amount were being paid to that person by the corporation; and
 - (ii) that person shall be deemed to have made a loan to the corporation on the first day of the said second fiscal year in an amount equal to the amount so unpaid minus the amount, if any, deducted or withheld therefrom by the corporation on account of that person's tax for the said second fiscal year. R.S.O. 1970, c. 91, s. 29 (3).

Where
unpaid
at time
corporation
wound up

(4) Where an amount in respect of a deductible outlay or expense described in subsection 3 that was owing by a corporation is unpaid at the time when the corporation is wound up, and the corporation is wound up before the end of the first fiscal year following the fiscal year in which the outlay or expense was incurred, the amount so unpaid shall be included in computing the corporation's income for the fiscal year in which it is wound up. R.S.O. 1970, c. 91, s. 29 (4).

Application

(5) Subsection 1 does not apply in any case where subsection 3 applies and subsection 2 does not apply in any case where subsection 4 applies. R.S.O. 1970, c. 91, s. 29 (5).

Late
filing

(6) Where, in respect of an amount described in subsection 1 or 3 that was owing by a corporation to a person, an agreement in a form prescribed for the purposes of this

section is filed after the day on or before which the agreement is required to be filed for the purposes of clause *b* of subsection 1 or clause *b* of subsection 3, as the case may be, both clauses *a* and *b* of subsection 1 or 3, as the case may be, apply in respect of the said amount, except that clause *a* of subsection 1 or clause *a* of subsection 3, as the case may be, shall be read and construed as requiring 25 per cent only of the said amount to be included in computing the corporation's income. R.S.O. 1970, c. 91, s. 29 (6).

- 70.** Where, at any time in a fiscal year, a corporation that, Mortgage foreclosures and conditional sales repossession
- (a) was a mortgagee or other creditor of another person who had previously acquired property; or
 - (b) had previously sold property to another person under a conditional sales agreement,

has acquired or reacquired the beneficial ownership of the property in consequence of the other person's failure to pay all or any part of an amount, in this section referred to as the "corporation's claim", owing by him to the corporation, the following rules apply:

- (c) there shall be included, in computing the other person's proceeds of disposition of the property, the principal amount of the corporation's claim plus all amounts each of which is the principal amount of any debt that had been owing by the other person, to the extent that it has been extinguished by virtue of the acquisition or reacquisition, as the case may be;
- (d) any amount paid by the other person after the acquisition or reacquisition, as the case may be, as, on account of or in satisfaction of the corporation's claim shall be deemed to be a loss of that person, for his taxation year in which payment of that amount was made, from the disposition of the property;
- (e) in computing the income of the corporation for the fiscal year,
 - (i) the amount, if any, claimed by it under sub-clause iii of clause *a* of subsection 1 of section 42 in computing its gain for the immediately preceding fiscal year from the disposition of the property, and
 - (ii) the amount, if any, deducted under clause *p* of subsection 1 of section 24 in computing

the income of the corporation for the immediately preceding fiscal year in respect of the property,

shall be deemed to be nil;

- (f) the corporation shall be deemed to have acquired or reacquired, as the case may be, the property at the amount, if any, by which the principal amount of the corporation's claim exceeds the amount described in subclause i or ii of clause *e*, as the case may be, in respect of the property;
- (g) the adjusted cost base to the corporation of the corporation's claim shall be deemed to be nil; and
- (h) in computing the corporation's income for the fiscal year or a subsequent fiscal year, no amount is deductible in respect of the corporation's claim by virtue of clause *n* or *r* of subsection 1 of section 24. *New.*

Debtor's
gain on
settlement
of debts

71. Where at any time in a fiscal year a debt or other obligation of a corporation to pay an amount is settled or extinguished after 1971 without any payment by it or by the payment of an amount less than the principal amount of the debt or obligation, as the case may be, the amount by which the lesser of the principal amount thereof and the amount for which the obligation was issued by the corporation exceeds the amount so paid, if any, shall be applied,

- (a) to reduce, in the following order, the corporation's,
 - (i) non-capital losses,
 - (ii) net capital losses, and
 - (iii) restricted farm losses,

for preceding fiscal years, to the extent of the amount of those losses that would otherwise be deductible in computing the corporation's taxable income for the fiscal year or a subsequent fiscal year; and

- (b) to the extent that the excess exceeds the portion thereof required to be applied as provided in clause *a*, to reduce in prescribed manner the capital cost to the corporation of any depreciable property and the adjusted cost base to it of any capital property;

unless,

- (c) the corporation is, at that time, a bankrupt within the meaning of section 108;
- (d) the debt or obligation was such that, if interest had been paid by the corporation in respect of it, no deduction would have been permitted by this Part in respect of that interest in computing the corporation's income;
- (e) section 70 is applicable in respect of the debt or obligation; or
- (f) the excess is otherwise required to be included in computing the corporation's income for the fiscal year. *New.*

72. In computing income, no deduction may be made in respect of a disbursement or expense made or incurred in respect of a transaction or operation that, if allowed, would unduly or artificially reduce the income. R.S.O. 1970, c. 91, s. 24 (5). Artificial transaction

73.—(1) Where the result of one or more sales, exchanges, declarations of trust, or other transactions of any kind whatsoever is that a person confers a benefit on a corporation, that person shall be deemed to have made a payment to the corporation equal to the amount of the benefit conferred notwithstanding the form or legal effect of the transactions or that one or more other persons were also parties thereto; and whether or not there was an intention to avoid or evade taxes under this Act, the payment shall be included in computing the income of the corporation. R.S.O. 1970, c. 91, s. 18 (1). Indirect payment or transfer

(2) Where it is established that a sale, exchange or other transaction was entered into by a corporation and other persons dealing at arm's length *bona fide* and not pursuant to, or as part of, any other transaction and not to effect payment in whole or in part of an existing or future obligation, no party thereto shall be regarded, for the purpose of this section and for the purpose of section 72, as having conferred a benefit on a corporation who was party thereto. R.S.O. 1970, c. 91, s. 18 (2). Arm's length

74. In computing the income of a corporation for a fiscal year there shall be included an amount that is included in computing the income of the corporation under Part XVI of the *Income Tax Act* (Canada) pursuant to section 247 of that Act. R.S.O. 1970, c. 91, s. 17(o). Dividend stripping
1970-71, c. 63,
(Can.)

SUBDIVISION F—AMOUNTS NOT INCLUDED
IN COMPUTING INCOME

Amounts not
included in
income

75.—(1) There shall not be included in computing the income of a corporation for a fiscal year,

Federal
grants

- (a) an amount paid to a corporation on account of a grant under the *Area Development Incentives Act* (Canada), the *Industrial Research and Development Incentives Act* (Canada), the *Regional Development Incentives Act* (Canada) or the *Employment Support Act* (Canada); R.S.O. 1970, c. 91, s. 22 (d).

War Savings
Certificate

- (b) an amount received under a War Savings Certificate issued by His Majesty in right of Canada or under a similar savings certificate issued by His Majesty in right of Newfoundland before April 1, 1949; R.S.O. 1970, c. 91, s. 22 (a).

Ship or
aircraft
of non-
residents

- (c) the income for the fiscal year of a non-resident corporation earned in Canada from the operation by it of a ship or aircraft in international traffic, if the country where that corporation resided grants substantially similar relief for the fiscal year to a corporation resident in Canada; R.S.O. 1970, c. 91, s. 22 (b).

Prospecting

- (d) an amount in respect of the receipt of a share that section 37 provides is not to be included; R.S.O. 1970, c. 91, s. 22 (c).

Interest on
certain bonds
and
debentures

- (e) interest received by a corporation resident in Canada, in this clause referred to as the "parent corporation", on a bond, debenture, bill, note, mortgage, hypothec or similar obligation received by it as consideration for the disposition by it, before June 18, 1971, of,

(i) a business carried on by it in a country other than Canada, or

(ii) all of the shares of a corporation that carried on a business in a country other than Canada, and such of the debts and other obligations of that corporation as were, immediately before the disposition, owing to the parent corporation,

if,

(iii) the business was of a public utility or public service nature,

- (iv) the business or the property described in sub-clause ii, as the case may be, was disposed of to a person or persons resident in that country, and
- (v) the obligation received by the parent corporation was issued by or guaranteed by the government of that country or any agent thereof. *New.*

(2) (a) Subject to the prescribed conditions, there shall not be included in computing the income of a corporation income derived from the operation of a mine during the period of thirty-six months commencing with the day on which the mine came into production. R.S.O. 1970, c. 91, s. 57 (4). Exemption
for three
years

(b) In clause *a*,

Inter-
pretation

- (i) "mine" does not include an oil well, gas well, brine well, sand pit, gravel pit, clay pit, shale pit or stone quarry, other than a deposit of oil shale or bituminous sand, but does include a well for the extraction of material from a sylvite deposit and all such wells, the material produced from which is sent to a single plant for processing, shall be deemed to be one mine, and
- (ii) "production" means production in reasonable commercial quantities. R.S.O. 1970, c. 91 s. 57 (5).

SUBDIVISION G—CORPORATIONS RESIDENT IN CANADA AND THEIR SHAREHOLDERS

76.—(1) In computing the income of a corporation for a fiscal year, there shall be included all amounts received by the corporation in the fiscal year from corporations resident in Canada as, on account or in lieu of payment of, or in satisfaction of taxable dividends. R.S.O. 1970, c. 91, s. 17 (a). Taxable
dividends
received

(2) Where, by virtue of subsection 4 of section 58, there is included in computing the corporation's income for a fiscal year a dividend received by some other person, for the purposes of this section and section 100, the dividend shall be deemed to have been received by the corporation. *New* Certain
dividends
deemed
received
by taxpayer

77.—(1) Where at any particular time after 1971 a dividend becomes payable by a Canadian corporation to shareholders of any class of shares of its capital stock, Dividend
out of
tax-paid
undistributed
surplus or
1971 capital
surplus

1970-71, c. 63
(Can.)

- (a) such dividend shall be deemed to be payable out of the corporation's tax-paid undistributed surplus on hand or out of its 1971 capital surplus on hand to the extent and in the same manner that such dividend is deemed to be payable out of the corporation's tax-paid undistributed surplus on hand or 1971 capital surplus on hand, as the case may be, for purposes of subsection 1 of section 83 of the *Income Tax Act* (Canada);
- (b) no part of the dividend shall be included in computing the income of any shareholder of the corporation; and
- (c) in computing the adjusted cost base to any shareholder of the corporation of any share of the capital stock of the corporation owned by him, there shall be deducted in respect of the dividend an amount as provided by subclause i of clause a of subsection 2 of section 55. *New.*

Capital
dividend

(2) Where at any particular time after 1971 a dividend becomes payable by a private corporation to shareholders of any class of shares of its capital stock,

- (a) the dividend shall be deemed to be a capital dividend to the extent required by subsection 2 of section 83 of the *Income Tax Act* (Canada); and
- (b) no part of the dividend shall be included in computing the income of any shareholder of the corporation. *New.*

Deemed
dividend

78.—(1) Where a corporation resident in Canada has at any time after 1971 increased the paid-up capital in respect of the shares of any particular class of its capital stock, otherwise than by,

- (a) payment of a stock dividend;
- (b) a transaction by which,
 - (i) the value of its assets less its liabilities has been increased, or
 - (ii) its liabilities less the value of its assets have been decreased,

by an amount not less than the amount of the increase in the paid-up capital in respect of the shares of the particular class; or

- (c) a transaction by which the paid-up capital in respect of the shares of all other classes of its capital stock has been reduced by an amount not less than the amount of the increase in the paid-up capital in respect of the shares of the particular class,

the corporation shall be deemed to have paid at that time a dividend on the issued shares of the particular class equal to the amount, if any, by which the amount of the increase in the paid-up capital exceeds the aggregate of,

- (d) the amount, if any, of the increase referred to in subclause i of clause b or the decrease referred to in subclause ii of clause b, as the case may be; and
- (e) the amount, if any, of the reduction referred to in clause c,

and a dividend shall be deemed to have been received at that time by each person who held any of the issued shares of the particular class immediately after that time equal to that proportion of the dividend so deemed to have been paid by the corporation that the number of the shares of the particular class held by him immediately after that time is of the number of the issued shares of that class outstanding immediately after that time. R.S.O. 1970, c. 91, s. 55 (7).

(2) Where funds or property of a corporation resident in Canada have at any time after 1971 been distributed or otherwise appropriated in any manner whatever to or for the benefit of the shareholders of any class of shares in its capital stock, on the winding-up, discontinuance or reorganization of its business, the corporation shall be deemed to have paid at that time a dividend on shares of that class equal to the amount, if any, by which,

Distributions
on winding-
up, etc.

- (a) the amount or value of the funds or property distributed or appropriated, as the case may be,

exceeds the lesser of,

- (b) the amount, if any, by which the paid-up capital in respect of the shares of that class immediately before that time is reduced on the distribution or appropriation, as the case may be; and
- (c) the paid-up capital limit of the corporation immediately before that time,

and a dividend shall be deemed to have been received at that time by each person who held any of the issued shares at that

time equal to that proportion of the amount of the excess that the number of the shares of that class held by him immediately before that time is of the number of the issued shares of that class outstanding immediately before that time. R.S.O. 1970, c. 91, s. 55 (1).

Redemption,
etc.

(3) Where at any time after 1971 a corporation resident in Canada has redeemed, acquired or cancelled in any manner whatever, otherwise than by way of a transaction described in subsection 2, any of the shares of any class of its capital stock, the corporation shall be deemed to have paid at that time a dividend on a class of shares comprising the shares so redeemed, acquired or cancelled, equal to,

1970-71, c. 63
(Can.)

- (a) in the case of any such shares in respect of the redemption or acquisition of which the corporation is required to pay tax under section 182 of the *Income Tax Act* (Canada), the amount, if any, by which the paid-up capital in respect of those shares immediately before that time exceeds the paid-up capital limit of the corporation immediately before that time; and
- (b) in the case of any other such shares, the amount, if any, by which the amount paid by the corporation on the redemption, acquisition or cancellation, as the case may be, of those shares exceeds the lesser of,
 - (i) the paid-up capital in respect of those shares immediately before that time, and
 - (ii) the amount, if any, by which the paid-up capital limit of the corporation immediately before that time exceeds the amount that was its paid-up capital in respect of the shares referred to in clause *a* so redeemed, acquired or cancelled at that time,

and a dividend shall be deemed to have been received at that time by each person who held any of those shares at that time equal to the aggregate of,

- (c) that proportion of the excess referred to in clause *a* that the number of those shares held by him immediately before that time and described in that clause is of the total number of those shares described in that clause; and
- (d) that proportion of the excess referred to in clause *b* that the number of those shares held by him immediately before that time and not described in

clause *a* is of the total number of those shares not described in that clause. R.S.O. 1970, c. 91, s. 55 (2).

(4) Where at any time after 1971 a corporation resident in Canada has reduced the paid-up capital in respect of any shares of any class of its capital stock otherwise than by way of a redemption, acquisition or cancellation of those shares or a transaction described in subsection 2,

(a) the corporation shall be deemed to have paid at that time a dividend on shares of that class equal to the amount, if any, by which the amount paid by it on the reduction of the paid-up capital exceeds the paid-up capital limit of the corporation immediately before that time; and

(b) a dividend shall be deemed to have been received at that time by each person who held any of the issued shares at that time equal to that proportion of the amount of the excess referred to in clause *a* that the number of the shares of that class held by him immediately before that time is of the number of the issued shares of that class outstanding immediately before that time. *New.*

(5) Where,

(a) the amount of the property distributed or appropriated by a corporation as described in clause *a* of subsection 2; or

(b) the amount paid by a corporation as described in clause *b* of subsection 3 or clause *a* of subsection 4,

includes a share of the capital stock of the corporation, for the purposes of subsections 2 to 4 the following rules apply:

(c) in computing that amount at any time, the share shall be valued at an amount equal to the paid-up capital in respect of the share at that time; and

(d) the value of the share shall be included in computing the paid-up capital limit of the corporation immediately before that time. *New.*

(6) Subsection 2 or 3, as the case may be, is not applicable,

(a) in respect of any transaction or event, if subsection 1 is applicable in respect of that transaction or event; and

- (b) in respect of any purchase by a corporation of any of its shares in the open market, if the corporation acquired those shares in the manner in which shares would normally be purchased by any member of the public in the open market. *New.*

When
dividend
payable

(7) A dividend that is deemed by this section to have been paid at a particular time shall be deemed, for the purposes of this Subdivision, to have become payable at that time. *New.*

Transfer of
property to
corporation
by control-
ling
shareholder

79.—(1) Where a person has, after 1971, disposed of any property that was a capital property or eligible capital property of the person to a Canadian corporation, and immediately after the disposition owned not less than 80 per cent of the issued shares of each class of the capital stock of the corporation, if the person and the corporation have jointly so elected in prescribed form and within prescribed time the following rules apply:

- (a) the amount that the person and the corporation have agreed upon in their election in respect of the property shall be deemed to be the person's proceeds of disposition of the property and the corporation's cost of the property;
- (b) subject to clause c, where the amount that the person and the corporation have agreed upon in their election in respect of the property is less than the fair market value, at the time of the disposition, of the consideration therefor, other than any shares of the capital stock of the corporation or a right to receive any such shares, received by the person, the amount so agreed upon shall, irrespective of the amount actually so agreed upon by them, be deemed to be an amount equal to that fair market value;
- (c) where the amount that the person and the corporation have agreed upon in their election in respect of the property is greater than the fair market value, at the time of the disposition, of the property so disposed of, the amount so agreed upon shall, irrespective of the amount actually so agreed upon, be deemed to be an amount equal to that fair market value;
- (d) where the property was eligible capital property in respect of a business of the person and the amount that, but for this clause, would be the proceeds of disposition thereof is less than the least of,

- (i) twice the person's cumulative eligible capital in respect of the business immediately before disposition,
- (ii) the cost to the person of the property, and
- (iii) the fair market value of the property at the time of disposition,

the amount agreed upon by the person and the corporation in their election in respect of the property shall, irrespective of the amount actually so agreed upon by them, and notwithstanding clauses *b* and *c*, be deemed to be the least of the amounts described in subclauses i to iii inclusive;

- (*e*) where the property was depreciable property of a prescribed class of the person and the amount that, but for this clause, would be the proceeds of disposition thereof is less than the least of,

- (i) the undepreciated capital cost to the person of all property of that class immediately before the disposition,
- (ii) the cost to the person of the property, and
- (iii) the fair market value of the property at the time of the disposition,

the amount agreed upon by the person and the corporation in their election in respect of the property shall, irrespective of the amount actually so agreed upon by them, and notwithstanding clauses *b* and *c*, be deemed to be the least of the amounts described in subclauses i to iii inclusive;

- (*f*) the cost to the person of any particular property, other than shares of the capital stock of the corporation or a right to receive any such shares, received by him as consideration for the disposition shall be deemed to be an amount equal to the lesser of,
 - (i) the fair market value of the particular property at the time of the disposition, and
 - (ii) that proportion of the fair market value, at the time of the disposition, of the property disposed of by the person to the corporation that,

- (A) the amount determined under sub-clause i is of,
 - (B) the fair market value, at the time of the disposition, of all properties, other than shares of the capital stock of the corporation or a right to receive any such shares, received by the person as consideration for the disposition;
- (g) the cost to the person of any preferred shares of any class of the capital stock of the corporation receivable by him as consideration for the disposition shall be deemed to be the lesser of the fair market value of those shares immediately after the disposition and that proportion of the amount, if any, by which the proceeds of the disposition exceed the fair market value of the consideration, other than shares of the capital stock of the corporation or a right to receive any such shares, received by him for the disposition, that,
- (i) the fair market value, immediately after the disposition, of those preferred shares of that class,
- is of,
- (ii) the fair market value, immediately after the disposition, of all preferred shares of the capital stock of the corporation receivable by him as consideration for the disposition;
- (h) the cost to the person of any common shares of any class of the capital stock of the corporation receivable by him as consideration for the disposition shall be deemed to be that proportion of the amount, if any, by which the proceeds of the disposition exceed the aggregate of the fair market value, at the time of the disposition, of the consideration, other than shares of the capital stock of the corporation or a right to receive any such shares, received by him for the disposition and the cost to him of all preferred shares of the capital stock of the corporation receivable by him as consideration for that disposition, that,
- (i) the fair market value, immediately after the disposition, of those common shares of that class,

is of,

- (ii) the fair market value, immediately after the disposition, of all common shares of the capital stock of the corporation receivable by him as consideration for the disposition; and
 - (i) for greater certainty, where the application of this subsection results in a capital loss of the person from the disposition of any property, subsection 4 is applicable. *New.*
- (2) Where, after 1971,
- (a) any partnership property that was a capital property or eligible capital property of a partnership has been disposed of to a Canadian corporation;
 - (b) immediately after the disposition, not less than 80 per cent of the issued shares of each class of the capital stock of the corporation was partnership property; and
 - (c) the corporation and all the members of the partnership have so elected in respect of the disposition, in prescribed form and within prescribed time,

Transfer of
property to
corporation
from
partnership

clauses *a* to *i* of subsection 1 are applicable in respect of the disposition *mutatis mutandis* as if the partnership were a person resident in Canada who had disposed of the property to the corporation. *New.*

(3) Where,

- (a) in respect of any disposition of partnership property of a partnership to a corporation, subsection 2 applies;
- (b) the affairs of the partnership were wound up within sixty days after the disposition; and
- (c) immediately before the winding-up there was no partnership property other than money or property received from the corporation as consideration for the disposition,

Where
partnership
wound up

the following rules apply:

- (d) the cost to any member of the partnership of any property, other than shares of the capital stock of the corporation or a right to receive any such shares,

received by him as consideration for the disposition of his partnership interest on the winding-up shall be deemed to be the fair market value of the property at the time of the winding-up;

(e) the cost to any member of the partnership of any preferred shares of any class of the capital stock of the corporation receivable by him as consideration for the disposition of his partnership interest on the winding-up shall be deemed to be,

(i) where any common shares of the capital stock of the corporation were also receivable by him as consideration for disposition of the interest, the lesser of,

(A) the fair market value, immediately after the winding-up, of the preferred shares of that class so receivable by him, and

(B) that proportion of the amount, if any, by which the adjusted cost base to him of his partnership interest immediately before the winding-up exceeds the aggregate of the fair market value, at the time of the winding-up, of the consideration, other than shares of the capital stock of the corporation or a right to receive any such shares, received by him for the disposition of the interest, that,

1. the fair market value, immediately after the winding-up, of the preferred shares of that class so receivable by him,

is of,

2. the fair market value, immediately after the winding-up, of all preferred shares of the capital stock of the corporation receivable by him as consideration for the disposition, and

(ii) in any other case, the amount determined under paragraph B of subclause i;

(f) the cost to any member of the partnership of any common shares of any class of the capital of the corporation receivable by him as consideration for

the disposition of his partnership interest on the winding-up shall be deemed to be that proportion of the amount, if any, by which the adjusted cost base to him of his partnership interest immediately before the winding-up exceeds the aggregate of the fair market value, at the time of the winding-up, of the consideration, other than shares of the capital stock of the corporation or a right to receive any such shares, received by him for the disposition of the interest and the cost to him of all preferred shares of the capital stock of the corporation receivable by him as consideration for the disposition of the interest, that,

- (i) the fair market value, immediately after the winding-up, of the common shares of that class so receivable by him,

is of,

- (ii) the fair market value, immediately after the winding-up, of all common shares of the capital stock of the corporation so receivable by him as consideration for the disposition; and

- (g) the proceeds of disposition of the partnership interest of any member of the partnership shall be deemed to be the cost to him of all shares and property receivable or received by him as consideration for the disposition of the interest plus the amount of any money received by him as consideration for the disposition. *New.*

(4) Where a person has, after 1971, disposed of any capital property of the person to a corporation that, immediately after the disposition, was controlled, directly or indirectly in any manner whatever, by the person or by another person or group of persons by whom the first person was controlled directly or indirectly in any manner whatever, and, but for this subsection, the first person would have had a capital loss therefrom, the following rules apply:

Where capital loss from disposition of property to controlled corporation

- (a) his capital loss therefrom otherwise determined shall be deemed to be nil;
- (b) where, immediately after the disposition, the person owned any common shares of any class of the capital stock of the corporation, in computing the adjusted cost base to him of all common shares of that class owned by him immediately after the disposition

there shall be added that proportion of the amount, if any, by which the adjusted cost base to him, immediately before the disposition, of the property so disposed of exceeds his proceeds of the disposition, that,

- (i) the fair market value, immediately after the disposition, of all common shares of that class so owned by him,

is of,

- (ii) the fair market value, immediately after the disposition, of all common shares of the capital stock of the corporation owned by him immediately after the disposition; and

- (c) where, immediately after the disposition, the person owned no common shares of any class of the capital stock of the corporation, in computing the adjusted cost base to him of all preferred shares of any class of the capital stock of the corporation owned by him at that time, there shall be added that proportion of the amount, if any, by which the adjusted cost base to him, immediately before the disposition, of the property so disposed of exceeds his proceeds of the disposition, that,

- (i) the fair market value, immediately after the disposition, of all preferred shares of that class so owned by him,

is of,

- (ii) the fair market value, immediately after the disposition, of all preferred shares of the capital stock of the corporation owned by him immediately after the disposition. *New.*

Rules where depreciable property transferred to controlled corporation

(5) Where subsection 1 or 2 has been applicable in respect of any disposition of any depreciable property to a corporation, in this subsection referred to as the "transferee", and the capital cost to the transferor of the property exceeds the transferor's proceeds of the disposition, for the purposes of sections 17 and 24 and any regulations made under clause *a* of subsection 1 of section 24,

- (a) the capital cost of the property to the transferee shall be deemed to be the amount that was the capital cost thereof to the transferor; and

- (b) the excess shall be deemed to have been allowed to the transferee in respect of the property under regulations made under clause *a* of subsection 1 of section 24 in computing income for fiscal years before the acquisition by the transferee of the property. R.S.O. 1970, c. 91, s. 32 (3).

80.—(1) Where in the course of a reorganization of the capital of a corporation, a person has, after 1971, disposed of, and the corporation has acquired, category A shares of any class of the capital stock of the corporation, the following rules apply:

Disposition of shares by a shareholder in course of reorganization of capital

- (a) the cost to the person of any property, other than shares of the capital stock of the corporation or a right to receive any such shares, received by him as consideration for the disposition shall be deemed to be its fair market value at the time of the disposition;
- (b) the cost to the person of any category B shares of any class of the capital stock of the corporation receivable by him as consideration for the disposition shall be deemed to be,
 - (i) where category A shares were also receivable by him as consideration for the disposition, the lesser of,
 - (A) the fair market value, immediately after the disposition, of those category B shares of that class, and
 - (B) that proportion of the amount, if any, by which the adjusted cost base to him, immediately before the disposition, of the category A shares so disposed of exceeds the fair market value of the consideration for the disposition, other than shares of the capital stock of the corporation or a right to receive any such shares, received by him from the corporation, that,
 - 1. the fair market value, immediately after the disposition, of those category B shares of that class,

is of,

2. the fair market value, immediately after the disposition, of all category B shares of the capital stock of the corporation receivable by him as consideration for the disposition, and

(ii) in any other case, the amount determined under subparagraph B of subclause i;

- (c) the cost to the person of any category A shares of any class of the capital stock of the corporation receivable by him as consideration for the disposition shall be deemed to be that proportion of the amount, if any, by which the adjusted cost base to him, immediately before the disposition, of the category A shares so disposed of exceeds the aggregate of the fair market value of the consideration, other than shares of the capital stock of the corporation or a right to receive any such shares, received by him from the corporation as consideration for the disposition and the cost to him of all category B shares of the capital stock of the corporation receivable by him as consideration for the disposition, that,

- (i) the fair market value, immediately after the disposition, of the category A shares of that class receivable by him as consideration for the disposition,

is of,

- (ii) the fair market value, immediately after the disposition, of all category A shares of the capital stock of the corporation receivable by him as consideration for the disposition; and

- (d) his proceeds of the disposition of the shares shall be deemed to be the cost to him of all shares and other property receivable or received by him as consideration for the disposition of the shares plus the amount of any money received by him on the disposition. *New.*

Interpre-
tation

- (2) For the purposes of this section,

- (a) "category A share" means a common share where the person has disposed of a common share in the course of a reorganization, and means a preferred

share where the person has disposed of a preferred share in the course of a reorganization; and

- (b) "category B share" means a preferred share where a category A share means a common share, and means a common share where a category A share means a preferred share. *New.*

(3) This section is not applicable in any case where any of ^{Application} subsections 1 to 3 of section 79 are applicable. *New.*

81.—(1) In this section, an amalgamation means a merger ^{Amalgama-} of two or more corporations each of which was, immediately ^{tions} before the merger, a Canadian corporation, each of which corporations is referred to in this section as a "predecessor corporation", to form one corporate entity, in this section referred to as the "new corporation", in such manner that,

- (a) all of the property of the predecessor corporations immediately before the merger becomes property of the new corporation by virtue of the merger;
- (b) all of the liabilities of the predecessor corporations immediately before the merger become liabilities of the new corporation by virtue of the merger; and
- (c) all of the shareholders, except any predecessor corporation, of the predecessor corporations immediately before the merger become shareholders of the new corporation by virtue of the merger,

otherwise than as a result of the acquisition of property of one corporation by another corporation, pursuant to the purchase of such property by the other corporation or as a result of the distribution of such property to the other corporation upon the winding-up of the corporation. R.S.O. 1970, c. 91, s. 66 (1).

(2) Where there has been an amalgamation of two or ^{Rules} more corporations after 1971 the following rules ^{applicable} apply:

- (a) for the purposes of this Act, the corporate entity ^{Fiscal} formed as a result of the amalgamation shall be deemed ^{year} to be a new corporation the first fiscal year of which shall be deemed to have commenced at the time of the amalgamation, and a fiscal year of a predecessor corporation that would otherwise have ended after the amalgamation shall be deemed to have ended immediately before the amalgamation; R.S.O. 1970, c. 91, s. 66 (2) par. 1.

Inventory

- (b) for the purpose of computing the income of the new corporation for its first fiscal year, where the property described in the inventory, if any, of the new corporation at the commencement of that fiscal year includes,
 - (i) property that was described in the inventory of a predecessor corporation at the end of the fiscal year of the predecessor corporation that ended immediately before the amalgamation, which fiscal year of a predecessor corporation is referred to in this section as its "last fiscal year", or
 - (ii) property that would have been described in the inventory of the predecessor corporation at the end of its last fiscal year if its income for that fiscal year had not been computed in accordance with the method authorized by subsection 1 of section 31,

the property so included shall be deemed to have been acquired by the new corporation at the commencement of its first fiscal year for an amount determined in accordance with section 15 as the value thereof for the purpose of computing the income of the predecessor corporation for its last fiscal year, except that where the income of the predecessor corporation for its last fiscal year was computed in accordance with the method authorized by subsection 1 of section 31, the amount so determined shall be deemed to be nil; R.S.O. 1970, c. 91, s. 66 (2) par. 2.

Method
adopted
for com-
puting
income

- (c) where the method adopted by the new corporation for computing its income for a fiscal year from a business is not the same as the method adopted by a predecessor corporation for computing its income for its last fiscal year or a previous fiscal year, in computing the income of the new corporation for that fiscal year from the business,
 - (i) there shall be included any amount received by it in that fiscal year in payment of or on account of a debt owing to the predecessor corporation that would, if it had been received by the predecessor corporation in its last fiscal year, have been included in computing the income of the predecessor corporation for that fiscal year, and

- (ii) there may be deducted any amount paid by it in that fiscal year in payment of or on account of a debt owing by the predecessor corporation that would, if it had been paid by the predecessor corporation in its last fiscal year, have been deductible in computing the income of the predecessor corporation for that fiscal year; R.S.O. 1970, c. 91, s. 66 (2) par. 3.
- (d) for the purposes of sections 17 and 24 and any ^{Depre-}regulations made under clause *a* of subsection 1 of ^{ciable}property section 24,
- (i) where depreciable property of a prescribed class has been acquired by the new corporation from a predecessor corporation, the capital cost of the property to the new corporation shall be deemed to be the amount that was the capital cost thereof to the predecessor corporation, and
 - (ii) in determining the undepreciated capital cost to the new corporation of depreciable property of a prescribed class at any time,
 - (A) there shall be added to the capital cost to the new corporation of depreciable property of that class acquired before that time the undepreciated capital cost to each of the predecessor corporations of property of that class immediately before the amalgamation,
 - (B) there shall be subtracted from the capital cost to the new corporation of depreciable property of that class acquired before that time the capital cost to the new corporation of property of that class acquired by virtue of the amalgamation,
 - (C) a reference in subclause ii of clause *a* of subsection 4 of section 17 to amounts that would have been allowed to a corporation in respect of transferred property, at the rate that was allowed to the corporation in respect of property of a prescribed class, shall be construed as including a reference to amounts that would have been allowed to a prede-

cessor corporation in respect of that property at the rate that was allowed to the predecessor corporation in respect of property of that prescribed class, and

- (D) where depreciable property that is deemed by subsection 6 of section 39 to be a separate prescribed class has been acquired by the new corporation from a predecessor corporation, the property shall continue to be deemed to be of that same separate prescribed class; R.S.O. 1970, c. 91, s. 66 (2) par. 4.

Capital
property

- (e) where any capital property, other than depreciable property, has been acquired by the new corporation from a predecessor corporation, the cost of the property to the new corporation shall be deemed to be the amount that was the adjusted cost base thereof to the predecessor corporation immediately before the amalgamation; *New*.

Cumulative
eligible
capital

- (f) for the purposes of computing the cumulative eligible capital of the new corporation at any time in respect of a business, where a predecessor corporation carried on a business that is carried on by the new corporation the amount of the cumulative eligible capital of the predecessor corporation immediately before the amalgamation in respect of that business shall be added to the amount determined under subclause i of clause *a* of subsection 4 of section 18 in respect thereof; *New*.

Reserves

- (g) for the purpose of computing the income of the new corporation for a fiscal year,
- (i) any amount that has been deducted as a reserve in computing the income of a predecessor corporation for its last fiscal year shall be deemed to have been deducted as a reserve in computing the income of the new corporation for a fiscal year immediately preceding its first fiscal year, and
 - (ii) any amount deducted under clause *r* of subsection 1 of section 24 in computing the income of a predecessor corporation for its last fiscal year or a previous fiscal year shall be deemed to have been deducted thereunder in comput-

ing the income of the new corporation for a fiscal year immediately preceding its first fiscal year; R.S.O. 1970, c. 91, s. 66 (2) par. 5.

- (h) for the purpose of computing a deduction from the ^{Debts} income of the new corporation for a fiscal year under clause *n* or *r* of subsection 1 of section 24 or section 35, where any debt owing to a predecessor corporation,
 - (i) that was included in computing the income of the predecessor corporation for its last fiscal year or a previous fiscal year, or
 - (ii) that arose from a loan made in the ordinary course of business by the predecessor corporation, part of whose ordinary business was the lending of money,

has, by virtue of the amalgamation, been acquired by the new corporation, the amount thereof shall be deemed to be a debt owing to the new corporation that was included in computing the income of the new corporation for a previous fiscal year or that arose from a loan so made by it, as the case may be; R.S.O. 1970, c. 91, s. 66 (2) par. 6.

- (i) for the purpose of computing a deduction from the ^{Special reserve} income of the new corporation for a fiscal year under clause *p* of subsection 1 of section 24, any amount included in computing the income of a predecessor corporation from a business for its last fiscal year or a previous fiscal year in respect of property sold in the course of the business shall be deemed to have been included in computing the income of the new corporation from the business for a previous fiscal year in respect thereof; R.S.O. 1970, c. 91, s. 66 (2) par. 10.
- (j) for the purpose of computing a deduction from the ^{Idem} income of the new corporation for a fiscal year under clause *o* of subsection 1 of section 24 or section 34, any amount included in computing the income of a predecessor corporation from a business for its last fiscal year or a previous fiscal year by virtue of clause *a* of subsection 1 of section 16 shall be deemed to have been included in computing the income of the new corporation from the business for a previous fiscal year by virtue thereof; R.S.O. 1970, c. 91, s. 66 (2) par. 14.

Scientific
research

- (k) for the purpose of section 39, any expenditure of a capital nature on scientific research made by a predecessor corporation in its last fiscal year or a previous fiscal year that would have been deductible by the predecessor corporation by virtue of clause *b* of subsection 1 of section 39 in computing its income for its last fiscal year shall, to the extent that such expenditure was not deducted by the predecessor corporation, be deemed to be an expenditure of a capital nature on scientific research made in Canada by the new corporation in its first fiscal year; R.S.O. 1970, c. 91, s. 66 (2) par. 11.

Proceeds
not due
until
after
end of
year

- (l) for the purpose of computing the income of the new corporation for its first fiscal year and any subsequent fiscal year, any amount claimed under subclause iii of clause *a* of subsection 1 of section 42 in computing a predecessor corporation's gain for its last fiscal year from the disposition of any property shall be deemed,

(i) to have been claimed under that subclause in computing the new corporation's gain for a fiscal year immediately preceding its first fiscal year from the disposition of that property by it before its first fiscal year, and

(ii) to be the amount determined under subclause *i* of clause *a* of subsection 1 of section 42 in respect of that property; *New*.

Outlays
made
pursuant
to
warranty

- (m) for the purpose of section 44, any outlay or expense made or incurred by the new corporation in a fiscal year, pursuant to or by virtue of an obligation described in that section incurred by a predecessor corporation, that would, if the outlay or expense had been made or incurred by the predecessor corporation in that fiscal year, have been deemed to be a loss of the predecessor corporation for that fiscal year from the disposition of a capital property shall be deemed to be a loss of the new corporation for that fiscal year from the disposition of a capital property; *New*.

Expiry
of options
previously
granted

- (n) for the purpose of subsection 2 of section 51 any option granted by a predecessor corporation that expires after the amalgamation shall be deemed to have been granted by the new corporation, and any proceeds received by the predecessor corporation for the granting of the option shall be deemed to have been received by the new corporation therefor; *New*.

(o) for the purpose of computing a deduction from the income of the new corporation for a fiscal year under section 61, any amount that has been included in computing the income of a predecessor corporation for its last fiscal year or a previous fiscal year by virtue of subsection 1 or 3 of section 59, or by virtue of subsection 5ba or 5c of section 83A of the *Income Tax Act* (Canada) as it read in its application to a fiscal year before the 1972 fiscal year, shall be deemed to have been included in computing the income of the new corporation for a previous fiscal year by virtue thereof; *New*.

Consideration
for resource
property
disposition

1970-71, c. 63
(Can.)

(p) for the purpose of computing the tax-paid undistributed surplus on hand of the new corporation at any time, where a predecessor corporation has tax-paid undistributed surplus on hand immediately before the amalgamation the amount thereof shall be added to the aggregate of the amounts determined under subclause i to iii of clause *k* of subsection 1 of section 83; *New*.

Tax-paid
undistri-
buted
surplus
on hand

(q) for the purpose of computing the 1971 capital surplus on hand of the new corporation at any time, there shall be added to the aggregate of the amounts determined under subclauses i to iv of clause *l* of subsection 1 of section 83 the amount, if any, by which,

1971
capital
surplus
on hand

(i) the aggregate of amounts each of which is the 1971 capital surplus on hand, if any, of a predecessor corporation immediately before the amalgamation,

exceeds,

(ii) the aggregate of amounts each of which is the paid-up capital deficiency, if any, of a predecessor corporation immediately before the amalgamation; *New*.

(r) for the purpose of computing the paid-up capital deficiency of the new corporation at any time, there shall be added to the aggregate of the amounts determined under subclauses i to iv of clause *d* of subsection 1 of section 83 the amount, if any, by which,

Paid-up
capital
deficiency

(i) the aggregate of amounts each of which is the paid-up capital deficiency, if any, of a

predecessor corporation immediately before the amalgamation,

exceeds,

- (ii) the aggregate of amounts each of which is the 1971 capital surplus on hand, if any, of a predecessor corporation immediately before the amalgamation; *New*.

Idem

- (s) for the purpose of computing the 1971 capital surplus on hand or the paid-up capital deficiency, as the case may be, of the new corporation, in determining any amount under subclauses ii or vii of clause 1 of subsection 1 of section 83 any capital property owned by a predecessor corporation on December 31, 1971 that was acquired by the new corporation by virtue of the amalgamation shall be deemed to have been acquired by the new corporation before 1972 at an actual cost to it equal to the actual cost of the property to the predecessor corporation; *New*.

Charitable donations

- (t) for the purposes of clauses *a* and *b* of subsection 1 of section 98, gifts made by a predecessor corporation in its last fiscal year shall, to the extent that they were not deductible in computing its taxable income for that fiscal year, be deemed to have been made by the new corporation in a fiscal year immediately preceding its first fiscal year; R.S.O. 1970, c. 91, s. 66 (2) par. 7.

Losses

- (u) for the purpose of section 99, a non-capital loss, net capital loss or restricted farm loss of a predecessor corporation for a fiscal year is not deductible in computing the taxable income of the new corporation; R.S.O. 1970, c. 91, s. 66 (2) par. 8.

Taxable dividends

- (v) for the purposes of subsections 3 and 4 of section 100, where a share owned by a predecessor corporation has, by virtue of the amalgamation, been acquired by the new corporation any taxable dividend received on the share by the predecessor corporation that was deductible from the new corporation's income from the predecessor corporation's income for a fiscal year under section 100 shall be deemed to be a taxable dividend received by the new corporation that was deductible for a fiscal year under section 100; *New*.

Capital dividend account

- (w) in the case of a new corporation that is a private corporation, for the purposes of computing the

capital dividend account of the new corporation at any particular time,

- (i) one-half of the amount of any capital gain and one-half of the amount of any capital loss of any predecessor private corporation for any fiscal year commencing after it last became a private corporation and ending after 1971 and either before or at the time of the amalgamation shall, in the case of a capital gain, be included, and in the case of a capital loss, be deducted,
 - (ii) any amount that would, if the amalgamation had not occurred but if any fiscal year of a predecessor corporation that would otherwise have ended next after the amalgamation had ended immediately before the amalgamation, have been required by any of subclauses ii to iv of clause *b* of subsection 1 of section 83 to be included in computing the predecessor corporation's capital dividend account immediately after the amalgamation shall be included, and
 - (iii) any capital dividend that became payable by any predecessor corporation after it last became a private corporation and before the amalgamation shall be deducted; *New.*
- (x) in the case of a new corporation that is a mutual fund corporation, Mutual
fund
corporation
- (i) for the purpose of computing its capital gains dividend account at any time, where a predecessor mutual fund corporation had a capital gains dividend account immediately before the amalgamation the amount thereof shall be added to the amount determined under section 109, and
 - (ii) for the purpose of computing its refundable capital gains tax on hand at the end of any fiscal year, where a predecessor mutual fund corporation had refundable capital gains tax on hand immediately before the amalgamation the amount thereof shall be added to the amount determined under section 109; *New.*
- (y) for the purpose of section 192 of the *Income Tax Act* (Canada) except subsection 11 thereof, where a cor- Application
of 1970-71, c. 63
(Can.)
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poration was controlled by a predecessor corporation immediately before the amalgamation and has, by virtue of the amalgamation, become controlled by the new corporation, the new corporation shall be deemed to have acquired control of the corporation so controlled at the time control thereof was acquired by the predecessor corporation; *New*.

Designated
surplus

- (z) for the purpose of computing the designated surplus of the new corporation at any particular time, there shall be added to the aggregate of the amounts determined under subclauses i and ii of clause *a* of subsection 13 of section 192 or under subclauses i to iii of clause *b* of subsection 13 of section 192 of the *Income Tax Act* (Canada), as the case may be, the aggregate of amounts each of which is an amount in respect of a predecessor corporation, equal to,

1970-71, c. 63
(Can.)

- (i) in any case where the predecessor corporation was, immediately before the amalgamation, controlled by a corporation that, immediately after the amalgamation and thereafter without interruption until the particular time, controlled the new corporation, its designated surplus immediately before the amalgamation, and

- (ii) in any other case, the amount that its designated surplus would have been immediately before the amalgamation if control of the predecessor corporation had been acquired by another corporation immediately before the amalgamation; and *New*.

1971
undistributed
income on
hand

- (za) for the purpose of computing the 1971 undistributed income on hand of the new corporation at any time, except as that computation applies for the purpose of determining the designated surplus of the new corporation at any time, where a predecessor corporation had 1971 undistributed income on hand immediately before the amalgamation the amount thereof shall be added to the aggregate of the amounts determined under clauses *a*, *b* and *c* of subsection 4 of section 196 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 66 (2) par. 9.

Where
share of
predecessor
corporation
owned by
another
such
corporation

- (3) Where there has been an amalgamation of two or more corporations after 1971 and, immediately before the amalgamation, one of the predecessor corporations, in this subsection referred to as the "owner corporation", owned any share of

the capital stock of another of the predecessor corporations, the following rules apply,

- (a) for the purpose of computing the paid-up capital deficiency of the new corporation at any time, the amount, if any, by which the paid-up capital in respect of the share immediately before the amalgamation exceeds the adjusted cost base of the share to the owner corporation immediately before the amalgamation shall be added to the aggregate of the amounts determined under subclauses i to iv of clause *d* of subsection 1 of section 83; and
- (b) for the purpose of computing the post-1971 undistributed surplus on hand, within the meaning assigned by subsection 15 of section 192 of the *Income Tax Act* (Canada), of the new corporation at any time, the amount, if any, by which the adjusted cost base of the share to the owner corporation immediately before the amalgamation exceeds the paid-up capital in respect of the share immediately before the amalgamation shall be added to the aggregate of the amounts determined under clauses *a* to *d* of subsection 15 of section 192 of the *Income Tax Act* (Canada). *New.*

1970-71, c. 63
(Can.)

(4) Where there has been an amalgamation of two or more corporations after 1971, for the purpose of computing the income of each shareholder, except any predecessor corporation, who owned one or more shares of the capital stock of a predecessor corporation immediately before the amalgamation, the following rules apply,

Rules
applicable
for
computing
income of
shareholder
of pre-
decessor
corporation

- (a) where a shareholder owned one or more preferred shares of any class of the capital stock of the predecessor corporation immediately before the amalgamation and received no consideration for the disposition of those shares on the amalgamation other than one or more preferred shares of a class of capital stock of the new corporation having substantially the same rights and conditions attaching thereto, determined without regard to any voting rights attaching to any shares, as attached to the shares of the predecessor corporation so disposed of by him,
 - (i) the shareholder shall be deemed to have disposed of the preferred shares of the class of the capital stock of the predecessor corporation so disposed of by him on the amalgamation, for proceeds equal to the adjusted cost base

to him of those shares immediately before the amalgamation, and

- (ii) he shall be deemed to have acquired the preferred shares of the class of the capital stock of the new corporation so acquired by him as consideration for the disposition of the preferred shares described in clause *i*, at a cost to him equal to the proceeds described in that subclause; and

(b) where,

- (i) the shareholder owned one or more common shares of the capital stock of the predecessor corporation immediately before the amalgamation,
- (ii) none of the persons, except any predecessor corporation, who owned one or more of the common shares of the capital stock of the predecessor corporation immediately before the amalgamation received any consideration for the disposition of those shares on the amalgamation, other than one or more shares of the capital stock of the new corporation, and

(iii) either,

- (A) the persons, except any predecessor corporation, who together owned all of the common shares of the capital stock of the predecessor corporation immediately before the amalgamation together received as consideration for the disposition of those shares on the amalgamation not less than 25 per cent of the shares of each particular class of the issued common shares of the capital stock of the new corporation immediately after the amalgamation,

or,

(B) in any case where,

- 1. the shareholder owned one or more of the common shares of the capital stock of one or more

other predecessor corporations immediately before the amalgamation, and

2. none of the persons, except any predecessor corporation, who owned one or more of the common shares of the capital stock of such one or more other predecessor corporations immediately before the amalgamation received any consideration for the disposition of those shares on the amalgamation other than one or more shares of the capital stock of the new corporation,

the shareholder received on the amalgamation, as consideration for the disposition of the common shares of the capital stock of the predecessor corporation and of such one or more other predecessor corporations owned by him immediately before the amalgamation, not less than 80 per cent of the shares of each particular class of the issued common shares of the capital stock of the new corporation immediately after the amalgamation,

the shareholder,

- (iv) shall be deemed to have disposed of the common shares of the capital stock of the predecessor corporation so disposed of by him on the amalgamation, for proceeds equal to the adjusted cost base to him of those shares immediately before the amalgamation, and
- (v) shall be deemed to have acquired the shares of any particular class of the capital stock of the new corporation so acquired by him as consideration for the disposition of the common shares described in subclause iv, at a cost to him equal to that proportion of the proceeds described in subclause iv that,
 - (A) the fair market value, immediately after the amalgamation, of all shares of that particular class so acquired by him,

is of,

- (B) the fair market value, immediately after the amalgamation, of all of the shares of the capital stock of the new corporation so acquired by him as consideration for the disposition of the common shares described in subclause iv. *New.*

Percentage
of shares
received
by share-
holders of
predecessor
corporation

(5) For the purposes of paragraph A of subclause iii of clause b of subsection 4, the percentage of the shares of any particular class of the issued common shares of the capital stock of the new corporation immediately after the amalgamation received as described in that paragraph by the persons, except any predecessor corporation, who together owned all of the common shares of the capital stock of a particular predecessor corporation shall be deemed to be,

- (a) the percentage thereof otherwise determined,

plus,

- (b) that proportion of the percentage described in clause a that,

- (i) the fair market value of the issued common shares of the capital stock of the particular predecessor corporation owned by all other predecessor corporations immediately before the amalgamation,

is of,

- (ii) the fair market value of the issued common shares of the capital stock of the particular predecessor corporation owned by all persons, except any predecessor corporation, immediately before the amalgamation. *New.*

Canadian
exploration
and develop-
ment
expenses

(6) Where there has been an amalgamation of two or more corporations after 1971 and the new corporation is a principal-business corporation within the meaning assigned by subsection 12 of section 63, there may be deducted by the new corporation in computing its income for a fiscal year the aggregate of the following amounts in respect of expenses incurred by predecessor corporations, namely, in respect of each individual predecessor corporation, the amount that is the lesser of,

- (a) the aggregate of the Canadian exploration and development expenses, within the meaning assigned

by subsection 12 of section 63, incurred by the predecessor corporation to the extent that such expenses,

- (i) were not deductible by the new corporation in computing its income for a previous fiscal year, and were not deductible by the predecessor corporation in computing its income for its last fiscal year or for a previous fiscal year, and
 - (ii) would, but for clause *b* of subsection 1 of section 63, have been deductible by the predecessor corporation in computing its income for its last fiscal year, and
- (b) of the aggregate determined under clause *a*, an amount equal to such part of the income of the new corporation for the year if no deduction were allowed under this section, section 62 or section 63, minus any deductions allowed for the fiscal year by section 100 as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells, or the production of minerals from mines, situated on property in Canada from which the predecessor corporation had, immediately before the amalgamation, a right to take or remove petroleum or natural gas or a right to take or remove minerals,

and no amount in respect of expenses of the predecessor corporation included in the aggregate determined under clause *a* shall where subsection 15 of section 192 of the *Income Tax Act* ^{1970-71, c. 63 (Can.)} (Canada) is being applied to determine for the purposes of clause *z* of subsection 2 of this section the designated surplus of the predecessor corporation immediately before the amalgamation, be included in the amount or amounts deductible under any clause of subsection 15 of section 192 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 66 (3, 12, 13), amended.

82. Where a Canadian corporation, in this section referred to as the "subsidiary", has been wound up after 1971 and all of the issued shares of the capital stock thereof were, immediately before the winding-up, owned by another Canadian corporation, in this section referred to as the "parent", notwithstanding any other provisions of this Act the following rules apply:

- (a) each property of the subsidiary that was distributed to the parent on the winding-up shall be deemed to have been disposed of by the subsidiary for proceeds equal to,
 - (i) in the case of any property described in subsection 2 of section 59, nil, and
 - (ii) in the case of any other property, the cost amount to the subsidiary of the property immediately before the winding-up;
- (b) the shares of the capital stock of the subsidiary shall be deemed to have been disposed of by the parent on the winding-up for proceeds equal to the greater of,
 - (i) the lesser of the paid-up capital limit of the subsidiary immediately before the winding-up and the amount determined under subclause i of clause *d*, and
 - (ii) the aggregate of amounts each of which is an amount in respect of any share of the capital stock of the subsidiary so disposed of by the parent on the winding-up, equal to the adjusted cost base to the parent of the share immediately before the winding-up;
- (c) the cost to the parent of each property of the subsidiary distributed to the parent on the winding-up shall be deemed to be the amount deemed by clause *a* to be the proceeds of disposition of the property, plus, where the property was a capital property, other than depreciable property, of the subsidiary, the amount determined under clause *d* in respect thereof;
- (d) the amount determined under this clause in respect of each property that was a capital property, other than depreciable property, of the subsidiary in such portion of the amount, if any, by which the aggregate determined under subclause ii of clause *b* exceeds,
 - (i) the amount, if any, by which,
 - (A) the aggregate of amounts each of which is an amount in respect of any property owned by the subsidiary immediately before the winding-up, equal to the cost

amount to the subsidiary of the property immediately before the winding-up, plus the amount of any money of the subsidiary on hand immediately before the winding-up,

exceeds,

- (B) the aggregate of amounts each of which is the amount of any debt owing by the subsidiary, or of any other obligation of the subsidiary to pay any amount, that was outstanding immediately before the winding-up,

as is designated by the parent in respect of that capital property in its return of income under this Part for its fiscal year in which the subsidiary was so wound up, except that,

- (ii) in no case shall the amount so designated in respect of any such capital property exceed the amount, if any, by which the fair market value of the property immediately before the winding-up exceeds the cost amount to the subsidiary of the property immediately before winding-up, and
- (iii) in no case shall the aggregate of amounts so designated in respect of all such capital properties exceed the amount, if any, by which the aggregate determined under subclause ii of clause *b* exceeds the amount determined under subclause i;
- (e) the subsidiary shall be deemed to have paid and the parent shall be deemed to have received, immediately before the winding-up, a dividend on the shares of the capital stock of the subsidiary equal to the amount, if any, by which the amount determined under subclause i of clause *d* exceeds the paid-up capital limit of the subsidiary immediately before the winding-up; and
- (f) where property that was depreciable property of a prescribed class of the subsidiary has been distributed to the parent on the winding-up and the capital cost to the subsidiary of the property exceeds the amount deemed by clause *a* to be the subsidiary's proceeds of disposition thereof, for the purposes of sections

17 and 24 and any regulations made under clause *a* of subsection 1 of section 24,

- (i) notwithstanding clause *c* the capital cost to the parent of the property shall be deemed to be the amount that was the capital cost thereof to be the amount that was the capital cost thereof to the subsidiary, and
- (ii) the excess shall be deemed to have been allowed to the parent in respect of the property under regulations made under clause *a* of subsection 1 of section 24 in computing income for fiscal years before the acquisition by the parent of the property. *New.*

Interpre-
tation

83.—(1) In this Subdivision,

(a) “Canadian corporation” at any time means a corporation that was resident in Canada at that time and was,

(i) incorporated in Canada, or

(ii) resident in Canada throughout the period commencing June 18, 1971 and ending at that time,

except that for the purposes of subsection 1 of section 77 a corporation that was incorporated in Canada before April 27, 1965 and that was not resident in Canada at the end of 1971 shall be deemed not to be a Canadian corporation; R.S.O. 1970, c. 91, s. 1 (1) par. 8.

(b) “capital dividend account” of a corporation at any particular time means the amount, if any, by which the aggregate of,

(i) one half of the amount, if any, by which the aggregate of the capital gains of the corporation, for fiscal years in the period commencing with the first fiscal year commencing after the time the corporation last became a private corporation and ending after 1971, and ending with the last fiscal year ending before the particular time, exceeds the aggregate of its capital losses for those fiscal years,

(ii) all amounts each of which is an amount in respect of a dividend received by the corporation on a share of the capital stock of another corporation in the period, which amount was, by virtue of subsection 2 of section 77, not included in computing the income of the corporation,

(iii) all amounts each of which is an amount in respect of a business carried on by the corporation at any time in the period, equal to the amount, if any, by which,

(A) the aggregate of the eligible capital amounts, within the meaning assigned by subsection 1 of section 18, in respect of the business that became payable to the corporation in the period,

exceeds the aggregate of,

(B) the cumulative eligible capital of the corporation in respect of the business at the commencement of the period, and

(C) one-half of the aggregate of the eligible capital expenditures in respect of the business that were made or incurred by the corporation in the period, and

(iv) the amount, if any, by which,

(A) the proceeds of any life insurance policy received by the corporation in the period and after 1971 in consequence of the death of any person whose life was insured under the policy,

exceeds,

(B) all amounts paid as or on account of premiums paid under the policy,

exceeds the aggregate of all capital dividends that became payable by the corporation after the commencement of the period and before the particular time; *New.*

(c) "paid-up capital" in respect of a share of any class of the capital stock of a corporation at any particular

time means an amount equal to the paid-up capital of the corporation at that time that is represented by the shares of the class to which that share belongs, divided by the number of issued shares of that class then outstanding; R.S.O. 1970, c. 91, s. 2 (2) (g).

(d) "paid-up capital deficiency" of a corporation at any particular time means the amount, if any, by which the aggregate of,

- (i) the amounts determined under subclauses v and vi of clause l in respect of the corporation,
- (ii) all amounts determined under subclauses vii and viii of clause l in respect of the corporation at the particular time,
- (iii) the paid-up capital at the particular time in respect of any shares of the capital stock of the corporation issued after 1971 that were received by a person as described in subsection 1 of section 37, and
- (iv) where subsection 1 or 2 of section 79 has been applicable in respect of any disposition of property to the corporation before the particular time, the amount, if any, by which,

(A) the amount by which any increase, by virtue of the disposition, in the paid-up capital of the corporation exceeds any increase, by virtue of the disposition, in the value of its assets, determined as though the value of any property so transferred were its cost to the corporation for the purposes of this Part and as though this Part were read without reference to subsection 5 of section 79, less its liabilities,

exceeds,

(B) the amount by which any increase, by virtue of the disposition, in the paid-up capital of the corporation exceeds any increase, by virtue of the disposition, in the value of its assets less its liabilities,

exceeds the aggregate of,

- (v) the tax equity of the corporation at the end of its 1971 fiscal year,
 - (vi) all amounts determined under subclauses ii, iii, iv and iv.1 of clause *l* in respect of the corporation at the particular time,
 - (vii) all amounts each of which is an amount deemed by subsection 2, 3, or 4 of section 78 to be a dividend paid before the particular time by the corporation on shares of any class, to the extent of the amount, if any, by which the paid-up capital in respect of the shares of that class at the time the dividend was paid exceeds the paid-up capital limit of the corporation at the time the dividend was paid,
 - (viii) all amounts each of which is an amount in respect of a reduction of the paid-up capital of the corporation after its 1971 fiscal year and before the particular time, equal to the amount, if any, by which the amount of the reduction exceeds the aggregate of amounts paid by it to its shareholders on the reduction;
 - (ix) all business losses, within the meaning of *The R.S.O. 1970, c. 91 Corporations Tax Act* as it read in its application to the 1971 fiscal year, sustained by the corporation in fiscal years ending before 1972, to the extent that such losses have been deducted under clause *a* of subsection 1 of section 99 from the corporation's income for any fiscal year ending after 1971 and before the particular time, and
 - (x) all amounts each of which is an amount in respect of any purchase by the corporation before the particular time of any shares of its capital stock in respect of which tax under section 181 of the *Income Tax Act* (Canada) ^{1970-71, c. 63 (Can.)} is payable by it, equal to the amount, if any, by which the amount described in clause *a* of subsection 1 of section 181 of that Act in respect of the purchase exceeds the amount described in clause *b* of subsection 1 of section 181 of that Act in respect thereof; *New*.
- (e) "paid-up capital limit" of a corporation at any particular time means the amount, if any, by which the paid-up capital of the corporation at that time

in respect of all of the shares of its capital stock exceeds the corporation's paid-up capital deficiency at that time; *New*.

(f) "private corporation" at any particular time means a corporation that, at the particular time, was resident in Canada, was not a public corporation, and was not controlled, directly or indirectly in any manner whatever, by one or more public corporations; and for greater certainty for the purposes of determining, at any particular time, when a corporation last became a private corporation,

(i) a corporation that was a private corporation at the commencement of its 1972 fiscal year and thereafter without interruption until the particular time shall be deemed to have last become a private corporation at the end of its 1971 fiscal year, and

(ii) a corporation incorporated after 1971 that was a private corporation at the time of its incorporation and thereafter without interruption until the particular time shall be deemed to have last become a private corporation immediately before the time of its incorporation; *New*.

(g) "public corporation" at any particular time means a corporation that was resident in Canada at the particular time, if,

(i) at the particular time, a class or classes of shares of the capital stock of the corporation were listed on a prescribed stock exchange in Canada,

(ii) at any time after June 18, 1971 and,

(A) before the particular time, it elected in the prescribed manner to be a public corporation, and at the time of the election it complied with the prescribed conditions relating to the number of its shareholders, dispersal of ownership of its shares, public trading of its shares and size of the corporation, or

(B) before a day thirty days before the particular time, it was, by notice in

writing to the corporation, designated by the Minister of National Revenue for Canada to be a public corporation, and at the time it was so designated it complied with the conditions referred to in paragraph A,

unless subsequent to the election or designation, as the case may be, and before the particular time, it ceased to be a public corporation by virtue of subclause iii, or

(iii) at any time after June 18, 1971 and before the particular time, it was a public corporation, unless after the time it last became a public corporation and,

(A) before the particular time, it elected in the prescribed manner not to be a public corporation, and at the time it so elected it complied with the prescribed conditions relating to the number of its shareholders, dispersal of ownership of its shares and public trading of its shares, or

(B) before a day thirty days before the particular time, it was, by notice in writing to the corporation, designated by the Minister of National Revenue for Canada not to be a public corporation, and at the time it was so designated it complied with the conditions referred to in paragraph A,

in which case it shall be deemed thereupon to have ceased to be a public corporation;
New.

(h) "tax equity" of a corporation at the end of its 1971 fiscal year means the amount, if any, by which the aggregate of all amounts each of which is,

(i) an amount in respect of depreciable property of a prescribed class owned by the corporation immediately after that time, equal to the undepreciated capital cost thereof to the corporation at that time,

- (ii) an amount in respect of any other depreciable property owned by the corporation at that time, equal to the amount by which,

- (A) the actual cost of the property to the corporation, or the amount at which it was deemed to have acquired the property under subsection 8 of section 32 of *The Corporations Tax Act* as it read in its application to the 1971 fiscal year, as the case may be,

R.S.O. 1970, c. 91

exceeds,

- (B) the aggregate of amounts in respect of the cost of the property that were allowed under clause *a* of subsection 2 of section 23 of *The Corporations Tax Act* as it so read in computing the income of the corporation for taxation years ending before 1972,

- (iii) an amount in respect of any capital property, other than depreciable property, owned by the corporation at that time, equal to its cost to the corporation, determined without reference to the *Corporations Tax Application Rules, 1972*, minus any amounts in respect of the cost thereof deducted in computing the income of the corporation under this Part for any fiscal year ending before 1972,

- (iv) an amount in respect of property owned by the corporation and described in its inventory at that time equal to its value, at that time, for the purposes of computing the income of the corporation under Part III of *The Corporations Tax Act* as it read in its application to the 1971 fiscal year,

- (v) the amount of any debt owing to the corporation, other than any debt the amount of which was included in computing the corporation's income for its 1971 fiscal year and deducted in computing that income under clause *m* of subsection 1 of section 23 of *The Corporations Tax Act* as it read in its application to the 1971 fiscal year, or of any other right of the corporation to receive an amount, that was outstanding at that time, minus

such portion thereof as was not but would have been, if the amount had been received by the corporation in its 1971 fiscal year, included in computing its income for that fiscal year,

- (vi) the amount of any money of the corporation on hand at that time, or
- (vii) such part, if any, of,
 - (A) the cost to the corporation of any property, other than property described in subclauses i to v, owned by the corporation at that time, or
 - (B) any expenditure incurred by the corporation, other than an expenditure to acquire property, before that time,

as was not deductible in computing the corporation's income for the 1971 or any previous fiscal year for the purposes of Part III of *The Corporations Tax Act* as it read in its application to that fiscal year, but would have been deductible in computing its income for the 1971 fiscal year if *The Corporations Tax Act* as it read in its application to that fiscal year had been read without reference to any restriction on the quantum of any deduction thereunder,

R.S.O. 1970,
c. 91

exceeds the aggregate of all amounts each of which is,

- (viii) the amount of any debt owing by the corporation or of any other obligation of the corporation to pay an amount, that was outstanding at that time, minus such part, if any, thereof as would be, if the amount were paid by the corporation in its 1972 fiscal year, deductible in computing its income for its 1972 fiscal year, or
 - (ix) the amount of any reserve deducted in computing the corporation's income for its 1971 fiscal year under Part III of *The Corporations Tax Act* as it read in its application to that fiscal year; *New*.
- (i) "taxable Canadian corporation" means a corporation that,

1970-71, c. 63
(Can.)

- (i) was a Canadian corporation at the time any dividend in respect of which the expression is relevant was received or deemed to have been received, and
- (ii) was not, by virtue of a statutory provision, exempt from tax under Part I of the *Income Tax Act* (Canada) for the fiscal year of the corporation during which the dividend was received or deemed to have been received; *New*.
- (j) "taxable dividend" means a dividend in respect of which the corporation paying the dividend has not elected in accordance with section 83 of the *Income Tax Act* (Canada) in respect of the full amount thereof; *New*.
- (k) "tax-paid undistributed surplus on hand" of a corporation at any particular time means the amount, if any, by which the aggregate of,
 - (i) the lesser of,
 - (A) the amount that the corporation's tax-paid undistributed income, within the meaning of the *Income Tax Act* (Canada) as it read in its application to the 1971 fiscal year, would be, if that Act as it so read were applicable to the period consisting of that part of the corporation's 1972 fiscal year that is before 1972, as of the end of 1971, and
 - (B) the amount that the corporation's 1971 undistributed income on hand, as determined for purposes of the *Income Tax Act* (Canada), would be on January 1, 1972 if subsection 4 of section 196 of the *Income Tax Act* (Canada) were read without reference to clause *d* thereof,
 - (ii) all amounts on which, before the particular time, tax has been paid by the corporation under Part IX of the *Income Tax Act* (Canada), minus all amounts of that tax, and
 - (iii) all amounts each of which is an amount in respect of a dividend received by the corporation on a share of any class of the

capital stock of another corporation after 1971 and before the particular time, equal to the amount, if any, by which,

- (A) that proportion of such part of the whole dividend paid by the other corporation on all shares of that class at the time it paid the dividend so received by the corporation as was payable out of the other corporation's tax-paid undistributed surplus on hand, that the dividend so received by the corporation is of the whole dividend so paid by the other corporation,

exceeds,

- (B) 85/15 of the amount, if any, that the Minister of National Revenue for Canada was, before the particular time, required by subsection 2 of section 196 of the *Income Tax Act* ^{1970-71, c. 63 (Can.)} to pay to the corporation in respect of the dividend so received by it,

exceeds the aggregate of such of the dividends that became payable by the corporation before the particular time as were payable out of the corporation's tax-paid undistributed surplus on hand; and, *New*.

- (l) "1971 capital surplus on hand" of a corporation at any particular time means the amount, if any, by which the aggregate of,
 - (i) the tax equity of the corporation at the end of its 1971 fiscal year,
 - (ii) all amounts each of which is an amount in respect of a capital property of the corporation owned by it on December 31, 1971 and disposed of by it after that date and before the particular time, equal to the amount, if any, by which the lesser of its fair market value on the day fixed by proclamation for the purposes of Subdivision B and the corporation's proceeds of disposition thereof exceeds its actual cost to the corporation determined without reference to the *Corporations Tax Application Rules, 1972*,

- (iii) all amounts each of which is an amount in respect of a capital property owned by it at the end of its 1971 fiscal year or acquired by it thereafter and disposed of by the corporation before 1972, equal to the amount, if any, by which the corporation's proceeds of disposition thereof exceeds its actual cost to the corporation determined without reference to the *Corporations Tax Application Rules, 1972*,
- (iv) all amounts each of which is an amount in respect of a dividend received by the corporation on a share of the capital stock of another corporation after 1971 and before the particular time, which amount was, by virtue of subsection 1 of section 77, not included in computing the income of the corporation by virtue of this Subdivision, minus such portion, if any, of that amount as was payable out of the other corporation's tax-paid undistributed surplus on hand, and
- (iv.1) all amounts each of which is an amount in respect of an eligible capital amount, within the meaning assigned by subsection 1 of section 18, in respect of a business carried on by the corporation that became payable to the corporation in a fiscal year commencing after the time the corporation last became a private corporation and ending before the particular time, equal to the amount, if any, by which,
 - (A) the amount that the eligible capital amount would be but for the provisions of the *Corporations Tax Application Rules, 1972* relating to section 18,
 exceeds,
 - (B) the eligible capital amount,
 exceeds the aggregate of,
 - (v) the paid-up capital of the corporation at the end of its 1971 fiscal year in respect of all of the shares of its capital stock,
 - (vi) the amount that the corporation's undistributed income on hand, within the meaning assigned by the *Income Tax Act* (Canada) as

it read in its application to the 1971 fiscal year, would be at the end of its 1971 fiscal year if,

- (A) that Act as it so read were read without reference to subclause iii of clause *a* of subsection 1 of section 82 thereof, and
 - (B) reference in clause *a* of subsection 1 of section 82, except paragraph A of subclause vii, thereof to "1917" were read as references to "1950",
- (vii) all amounts each of which is an amount in respect of a capital property, other than depreciable property, of the corporation owned by it on December 31, 1971 and disposed of by it after that date and before the particular time, equal to the amount, if any, by which its actual cost to the corporation determined without reference to the *Corporations Tax Application Rules, 1972* exceeds the greater of the fair market value of the property on the day fixed by proclamation for the purposes of Subdivision B and the corporation's proceeds of disposition thereof,
- (viii) all amounts each of which is an amount in respect of a capital property, other than depreciable property, owned by it at the end of its 1971 fiscal year or acquired by it thereafter and disposed of by it before 1972, equal to the amount, if any, by which its actual cost to the corporation determined without reference to the *Corporations Tax Application Rules, 1972* exceeds the corporation's proceeds of disposition thereof, and
- (ix) all amounts each of which is an amount in respect of a dividend that became payable by the corporation before the particular time, equal to the portion, if any, thereof payable out of its 1971 capital surplus on hand. *New.*

(1a) In subsection 1, "the day fixed by proclamation for the purposes of Subdivision B" is the day fixed by proclamation for the purposes of Subdivision C of Division B of Part I of the *Income Tax Act* (Canada). *New.*

Day fixed
by
proclamation
1970-71, c. 63
(Can.)

(2) Notwithstanding clause *l* of subsection 1, a life insurance corporation's 1971 capital surplus on hand at any particular time is the amount, if any, by which the aggregate of,

1971
capital
surplus on
hand of life
insurance
corporation

- (a) all amounts each of which is an amount in respect of any property disposed of by the corporation after 1968 and before 1972 that would, if the property had been disposed of after 1972, have been a capital property of the corporation, equal to the amount, if any, by which the proceeds of disposition of the property exceed the cost to the corporation thereof; and
- (b) the amount determined under subclause ii of clause *l* of subsection 1 in respect of the corporation at the particular time,

exceeds the aggregate of,

- (c) all amounts each of which is an amount in respect of any property described in clause *a*, equal to the amount, if any, by which the cost to the corporation of the property exceeds the proceeds of disposition thereof;
- (d) the amount determined under subclause vii of clause *l* of subsection 1 in respect of the corporation at the particular time; and
- (e) all amounts each of which is an amount in respect of a dividend that became payable by the corporation before the particular time, equal to the portion, if any, thereof payable out of its 1971 capital surplus on hand. *New.*

SUBDIVISION H—SHAREHOLDERS OF CORPORATIONS NOT RESIDENT IN CANADA

Dividends
received
from non-
resident
corporation

84. In computing the income for a fiscal year of a corporation resident in Canada, there shall be included any amounts received by the corporation in the fiscal year as, on account or in lieu of payment of, or in satisfaction of, dividends on a share owned by it of the capital stock of a corporation not resident in Canada. *New.*

SUBDIVISION I—PARTNERSHIPS AND THEIR MEMBERS

General
rules

85.—(1) Where a corporation is a member of a partnership, its income, net capital loss, non-capital loss and restricted farm loss, if any, for a fiscal year, or its taxable income earned in Canada for a fiscal year, as the case may be, shall be computed as if,

- (a) the partnership were a separate person resident in Canada;
- (b) the taxation year of the partnership were its fiscal year;
- (c) each partnership activity, including the ownership of property, were carried on by the partnership as a separate person, and a computation were made of the amount of,
 - (i) each taxable capital gain and allowable capital loss of the partnership from the disposition of property, and
 - (ii) each income and loss of the partnership from each other source or from sources in a particular place,

for each fiscal year of the partnership;

- (d) each income or loss of the partnership for a fiscal year were computed as if no deduction were permitted by subsection 1 of section 62, section 63 or the provisions of the *Corporations Tax Application Rules*, 1972 relating to exploration and development expenses;
- (e) each gain of the partnership from the disposition of land used in a farming business of the partnership were computed as if this Act were read without reference to clause *h* of subsection 1 of section 55;
- (f) the amount of the income of the partnership for a fiscal year from any source or from sources in a particular place were the income of the corporation from that source or from sources in that particular place, as the case may be, for the fiscal year of the corporation in which the partnership's fiscal year ends, to the extent of the corporation's share thereof; and
- (g) the amount of the loss of the partnership for a fiscal year from any source or from sources in a particular place were the loss of the corporation from that source or from sources in that particular place, as the case may be, for the fiscal year of the corporation in which the partnership's fiscal year ends, to the extent of the corporation's share thereof.

Construction (2) The provisions of this Subdivision shall be read and construed as if each of the assumptions in clauses *a* to *g* of subsection 1 were made. *New.*

Contribution
of property
to
partnership

86.—(1) Where at any time after 1971 a partnership has acquired property from a person who was, immediately after that time, a member of the partnership, the partnership shall be deemed to have acquired the property at an amount equal to its fair market value at that time and the person shall be deemed to have disposed of the property for proceeds equal to that fair market value. *New.*

Rules
applicable
where
election
by partners

(2) Notwithstanding any other provision of this Act, where at any time after 1971 a Canadian partnership has acquired property from a person who was, immediately after that time, a member of the partnership, if all the persons who immediately after that time were members of the partnership have jointly so elected in respect of the property in the prescribed form and within the prescribed time, the following rules apply:

- (a) the amount that all of those persons have agreed upon in their election in respect of the property shall be deemed to be the person's proceeds of disposition of the property and the amount for which the partnership acquired the property;
- (b) the amount, if any, by which the amount so elected in respect of the property exceeds the amount of the consideration, other than an interest in the partnership, received by the person for the property shall,
 - (i) if immediately before that time the person was a member of the partnership, be included in computing the adjusted cost base to him of his interest in the partnership, and
 - (ii) in any other case, be included in computing the cost to him of his interest in the partnership;
- (c) where the amount that all of those persons have agreed upon in their election in respect of the property is greater than the fair market value, at the time of the disposition, of the property so disposed of, the amount so agreed upon shall, irrespective of the amount actually so agreed upon, be deemed to be an amount equal to that fair market value; and

- (d) notwithstanding clause c, where the amount that all of those persons have agreed upon in their election in respect of the property is less than the amount of the consideration, other than an interest in the partnership, received by the person for the property, the amount so agreed upon shall, irrespective of the amount so agreed upon, be deemed to be an amount equal to the amount of that consideration. *New.*

(3) Where at any time after 1971 a partnership has acquired property from a person who was, immediately after the acquisition, a member of the partnership, and, Where property acquired from majority interest partner

- (a) the person's share, as a member of the partnership, of the income of the partnership from any source for the fiscal year of the partnership in which the property was acquired exceeds one-half of the income of the partnership from that source for the fiscal year; or
- (b) the amount that would, if the partnership were wound up immediately after the acquisition, be paid to the person as a member of the partnership, otherwise than as his share of any income of the partnership, exceeds one-half of the aggregate of all such amounts that would be so paid to all persons as members of the partnership,

the loss, if any, of the person arising from the acquisition of the property by the partnership,

- (c) is, notwithstanding any other provision of this Act, not deductible in computing the income, net capital loss, non-capital loss or restricted farm loss, if any, of the person for any fiscal year; and

(d) shall,

- (i) where immediately before that time the person was a member of the partnership, be included in computing the adjusted cost base to him of his interest in the partnership, and
- (ii) in any other case, be included in computing the cost to him of his interest in the partnership. *New.*

(4) Where subsection 2 has been applicable in respect of the acquisition of any depreciable property by a partnership from a person who was, immediately after he disposed of Where capital cost to partner exceeds proceeds of disposition

the property, a member of the partnership and the capital cost to the person of the property exceeds his proceeds of the disposition, for the purposes of sections 17 and 24 and any regulations made under clause *a* of subsection 1 of section 24,

- (a) the capital cost to the partnership of the property shall be deemed to be the amount that was the capital cost thereof to the person; and
- (b) the excess shall be deemed to have been allowed to the partnership in respect of the property under regulations made under clause *a* of subsection 1 of section 24 in computing income for fiscal years before the acquisition by the partnership of the property. *New.*

Disposition
of partner-
ship property

87.—(1) For the purposes of this Act, notwithstanding that at any time after 1971 a partnership would, but for this subsection, be regarded as having ceased to exist,

- (a) until such time as all of the partnership property and any property substituted therefor has been distributed to the persons entitled by law to receive it, the partnership shall be deemed not to have ceased to exist, and each person who was a partner shall be deemed not to have ceased to be a partner; and
- (b) the right of each such person to share in such property shall be deemed to be an interest in the partnership. *New.*

Continuing
partnership
interest

(2) Where at any time after 1971 a person would, but for this subsection, be regarded as having ceased to be a member of a partnership of which he was a member immediately before that time,

- (a) until such time as all rights to receive any property of or from the partnership in satisfaction of the person's interest in the partnership immediately before that time are satisfied in full, such interest, in this subsection referred to as a "continuing partnership interest", shall, notwithstanding any other provision of this Act, be deemed not to have been disposed of by the person and to continue to be an interest in the partnership;
- (b) a person who has a continuing partnership interest in the partnership shall, for the purposes of this Act, except subsections 2 to 4 of section 86, subsections 3

to 6 of this section, section 89, and section 91, be deemed to be a member of the partnership in respect of his continuing partnership interest therein; and

- (c) in its application to any property that is a continuing partnership interest in the partnership, clause *a* of subsection 3 of section 42 shall be read without reference to the words, "except clause *c* thereof", therein. *New.*

(3) Subject to subsection 3 of section 79 and subsections 4 ^{Deemed proceeds} and 6 of this section, where at any time after 1971 a partnership has disposed of property to a person who was, immediately before that time, a member of the partnership, the partnership shall be deemed to have disposed of the property for proceeds equal to its fair market value at that time and the person shall be deemed to have acquired the property at an amount equal to that fair market value. *New.*

(4) Where at any particular time after 1971 a Canadian ^{Rules applicable where partnership ceases to exist} partnership has ceased to exist and all of the partnership property has been distributed to persons who were members of the partnership immediately before that time so that immediately after that time each such person has, in each such property, an undivided interest that, when expressed as a percentage, in this subsection referred to as that person's "percentage", of all of the undivided interests in the property, is equal to his undivided interest, when so expressed, in each other such property, if each such person has jointly so elected in respect of the property in the prescribed form and within the prescribed time, the following rules apply:

- (a) each such person's proceeds of the disposition of his interest in the partnership shall be deemed to be an amount equal to the greater of,
- (i) the adjusted cost base to him, immediately before the particular time, of his interest in the partnership, and
 - (ii) the amount of any money received by him on the cessation of the partnership's existence, plus his percentage of the aggregate of amounts each of which is the cost amount to the partnership of each such property immediately before its distribution;
- (b) the cost to each such person of his undivided interest in each such property shall be deemed to be an amount equal to,

- (i) his percentage of the cost amount to the partnership of the property immediately before its distribution,

plus,

- (ii) where the amount determined under subclause i of clause *a* exceeds the amount determined under subclause ii of clause *a*, the amount determined under clause *c* or *d*, as the case may be, in respect of his undivided interest in the property;
- (c) the amount determined under this clause in respect of each such person's undivided interest in each such property that was a capital property, other than depreciable property, of the partnership is such portion of the excess, if any, described in subclause ii of clause *b* as is designated by him in respect of the property, except that,
- (i) in no case shall the amount so designated in respect of his undivided interest in any such property exceed the amount, if any, by which his percentage of the fair market value of the property immediately after its distribution exceeds his percentage of the cost amount to the partnership of the property immediately before its distribution, and
 - (ii) in no case shall the aggregate of amounts so designated in respect of his undivided interests in all such capital properties, other than depreciable property, exceed the excess, if any, described in subclause ii of clause *b*;
- (d) the amount determined under this clause in respect of each such person's undivided interest in each such property that was depreciable property or a property other than a capital property of the partnership is such portion of,
- (i) the amount, if any, by which the excess, if any, described in subclause ii of clause *b* exceeds the aggregate of amounts designated by him under clause *c* in respect of his undivided interests in all such capital properties, other than depreciable property,

as is designated by him in respect of the property, except that,

- (ii) in no case shall the amount so designated in respect of his undivided interest in any such property exceed the amount, if any, by which his percentage of the fair market value of the property immediately after its distribution exceeds his percentage of the cost amount to the partnership of the property immediately before its distribution, and
 - (iii) in no case shall the aggregate of amounts so designated in respect of his undivided interests in all such properties that are depreciable property or properties other than capital properties, exceeds one-half of the amount determined under subclause i in respect of him;
- (e) where the property so distributed by the partnership was depreciable property of the partnership of a prescribed class and any such person's percentage of the amount that was the capital cost to the partnership of that property exceeds the amount determined under clause *b* to be the cost to him of his undivided interest in the property, for the purposes of sections 17 and 24 and any regulations made under clause *a* of subsection 1 of section 24,
- (i) the capital cost to him of his undivided interest in the property shall be deemed to be his percentage of the amount that was the capital cost to the partnership of the property, and
 - (ii) the excess shall be deemed to have been allowed to him in respect of the property under regulations made under clause *a* of subsection 1 of section 24 in computing income for fiscal years before the acquisition by him of the undivided interest; and
- (f) the partnership shall be deemed to have disposed of each such property for proceeds equal to the cost amount to the partnership of the property immediately before its distribution. *New.*

(5) Subsection 4 is not applicable in any case in which subsection 6 or subsection 3 of section 79 is applicable. *New.* Application of subs. 4

(6) Where a Canadian partnership, in this subsection referred to as the "predecessor partnership", has ceased to Continuation of predecessor partnership by new partnership

exist at any particular time after 1971 and, at or before that time, all of the property of the predecessor partnership has been transferred to another Canadian partnership, hereinafter referred to as the "new partnership", the only members of which were members of the predecessor partnership, the new partnership shall be deemed to be a continuation of the predecessor partnership and any member's partnership interest in the new partnership shall be deemed to be a continuation of his partnership interest in the predecessor partnership. *New.*

Fiscal
period of
terminated
partnership

88. Where, at any time in a fiscal year of a partnership, the partnership would, but for subsection 1 of section 87 have ceased to exist, the fiscal year shall be deemed to have ended immediately before that time. *New.*

Disposition
of an interest
in a
partnership

89.—(1) Notwithstanding clause *a* of section 40, a corporation's taxable capital gain for a fiscal year from the disposition of an interest in a partnership to any person exempt from tax under section 122 shall be deemed to be,

- (a) one-half of such portion of its capital gain for the year therefrom as may reasonably be regarded as attributable to increases in the value of any partnership property of the partnership that is capital property other than depreciable property,

plus,

- (b) the whole of the remaining portion of such capital gain. *New.*

Gain from
disposition
of interest in
partnership

(2) In computing a corporation's gain for a fiscal year from the disposition of an interest in a partnership, there shall be included, in addition to the amount thereof determined under subsection 1 of section 42, the amount, if any, by which,

- (a) all amounts required by subsection 2 of section 55 to be deducted in computing the adjusted cost base to the corporation, immediately before the disposition, of the interest in the partnership,

exceeds,

- (b) the aggregate of the cost to the corporation of the interest in the partnership and all amounts required by subsection 1 of section 55 to be added in computing the adjusted cost base to it, immediately before the disposition, of that interest. *New.*

90. Where a corporation was a member of a partnership at the end of a fiscal year of the partnership in which the partnership disposed of land used in a farming business of the partnership, there may be deducted in computing the corporation's income for its fiscal year in which the fiscal year of the partnership ended, one-half of the aggregate of amounts each of which is an amount in respect of that fiscal year of the corporation or any previous fiscal year of the corporation ending after 1971, equal to the corporation's loss, if any, for the fiscal year from the farming business, to the extent that such loss,

- (a) was, by virtue of section 33, not deductible in computing the corporation's income for the fiscal year,
- (b) was not deductible for the purpose of computing the corporation's taxable income for its fiscal year in which the partnership's fiscal year in which the land was disposed of ended, or for any previous fiscal year of the corporation;
- (c) did not exceed that proportion of the aggregate of,
 - (i) taxes, other than income or profits taxes or taxes imposed by reference to the transfer of the property, paid by the partnership in its fiscal year ending in the fiscal year or payable by it in respect of that fiscal year to a province or a Canadian municipality in respect of the property, and
 - (ii) interest paid by the partnership in its fiscal year ending in the fiscal year or payable by it in respect of that fiscal year, pursuant to a legal obligation to pay interest on borrowed money used to acquire the property or on any amount as consideration payable for the property,

to the extent that such taxes and interest were included in computing the loss of the partnership for that fiscal year from the farming business, that,

- (iii) the corporation's loss from the farming business for the fiscal year,
- is of,
- (iv) the partnership's loss from the farming business for its fiscal year ending in the fiscal year; and

- (d) did not exceed the remainder obtained when,

- (i) the aggregate of each of the corporation's losses from the farming business for fiscal years preceding the fiscal year, to the extent that such losses are included in computing the amount determined under this subsection in respect of the corporation;

is deducted from,

- (ii) two times the amount of the corporation's taxable capital gain from the disposition of the land. *New.*

"Canadian partnership" defined

91. In this Subdivision "Canadian partnership" means a partnership all of the members of which were, at any time in respect of which the expression is relevant, resident in Canada. *New.*

Agreement to share income, etc., so as to reduce or postpone tax otherwise payable

92.—(1) Where the members of a partnership have agreed to share, in a specified proportion, any income or loss of the partnership from any source or from sources in a particular place, as the case may be, or any other amount in respect of any activity of the partnership that is relevant to the computation of the income or taxable income of any of the members thereof, and the principal reason for the agreement may reasonably be considered to be the reduction or postponement of the tax that might otherwise have been or become payable under this Act, the share of each member of the partnership in the income or loss, as the case may be, or in that other amount, is the amount that is reasonable having regard to all the circumstances including the proportions in which the members have agreed to share profits and losses of the partnership from other sources or from sources in other places. *New.*

Meaning of "losses" in subs. 1

(2) For the purposes of this section, the word "losses" when used in the expression "profits and losses" means losses determined without reference to other provisions of this Act. *New.*

SUBDIVISION J—BENEFICIARIES OF TRUSTS

Income of beneficiary from a trust

93.—(1) For the purposes of this Part, there shall be included in computing the income of a corporation that is a beneficiary under a trust such part of the amount that would be the income of the trust for a fiscal year if no deduction were made under subsection 6 or 12 of section 104 of the *Income Tax Act* (Canada) or under regulations made under clause *a* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as was payable in the fiscal year to the corporation

1970-71, c. 63 (Can.)

whether or not it was paid to it in that fiscal year and shall not be included in computing its income for a subsequent fiscal year in which it was paid. *New.*

(2) A corporation that is a beneficiary under a trust may ^{Idem} deduct from the amount that would otherwise be its income from the trust by virtue of subsection 1, such part of the amount that would otherwise be deductible from the income of the trust for the fiscal year under regulations made under clause *a* of subsection 1 of section 20 of the *Income Tax Act* ^{1970-71, c. 63 (Can.)} (Canada), as the trust may determine. *New.*

(3) Where an amount is payable in a fiscal year by a trust ^{Depletion allowance} to a corporation that is a beneficiary under the trust, no part of that amount shall be deemed, for the purpose of subsection 1, to be payable out of an amount deductible in computing the income of the trust for the fiscal year under regulations made under subsection 1 of section 65 of the *Income Tax Act* (Canada) except such part thereof as the trust designates as being so payable. *New.*

(4) Such portion of,

- (a) the aggregate of taxable dividends received by a trust ^{Portion of taxable dividends deemed to be dividends received by beneficiary} in a fiscal year on shares of the capital stock of taxable Canadian corporations,

as,

- (b) may reasonably be considered, having regard to all the circumstances including terms and conditions of the trust arrangement, to be part of the amount that, by virtue of subsection 1 or section 94, as the case may be, was included in computing the income for the fiscal year of a corporation that was a particular beneficiary under the trust; and
- (c) was not designated by the trust in respect of any other beneficiary thereunder,

shall if so designated by the trust in respect of the corporation that was a particular beneficiary in the return of its income for the fiscal year under Part I of the *Income Tax Act* (Canada), be deemed, for the purposes of section 76 and this subsection, to be a taxable dividend received by that corporation in the fiscal year from a taxable Canadian corporation, and not to be a taxable dividend received by the trust in the fiscal year from a taxable Canadian corporation. *New.*

(5) Where an amount has, in a fiscal year, become payable ^{Portion of non-taxable dividends not to be included in beneficiary's income} by a trust to a corporation that is a particular beneficiary thereunder, such portion thereof as,

- (a) may reasonably be considered, having regard to all the circumstances including the terms and conditions of the trust arrangement, to have derived from an amount received by the trust in the fiscal year as, on account or in lieu of payment of, or in satisfaction of a dividend on a share of the capital stock of a corporation resident in Canada other than a taxable dividend; and
- (b) was not designated by the trust in respect of any other beneficiary thereunder,

1970-71, c. 63
(Can.)

shall, if so designated by the trust in respect of the corporation that was a particular beneficiary in its return of income for the fiscal year under Part I of the *Income Tax Act* (Canada), not be included in computing the income of the corporation that was a particular beneficiary of the trust for the fiscal year. *New.*

Portion of
taxable
capital
gains
deemed
gain of
beneficiary

(6) Such portion of,

- (a) the amount, if any, by which the aggregate of the taxable capital gains of a trust for a fiscal year exceeds the aggregate of,
 - (i) its allowable capital losses for the fiscal year, and
 - (ii) the amount, if any, deductible under clause b of subsection 1 of section 111 of the *Income Tax Act* (Canada) from its income for the fiscal year,

as,

- (b) may reasonably be considered, having regard to all the circumstances including the terms and conditions of the trust arrangement, to be part of the amount that, by virtue of subsection 1 or section 94, as the case may be, was included in computing the income for the fiscal year of a corporation that was a particular beneficiary under the trust; and
- (c) was not designated by the trust in respect of any other beneficiary thereunder,

shall, if so designated by the trust in respect of the corporation that was a particular beneficiary in the return of its income for the fiscal year under Part I of the *Income Tax Act* (Canada), be deemed, for the purposes of sections 12 and 99, to be a taxable capital gain for the fiscal year of that corporation from the disposition of capital property. *New.*

(7) For the purposes of subsections 1 and 5, an amount shall not be considered to be payable in the fiscal year unless it was paid in the fiscal year to the person to whom it was payable or he was entitled in that fiscal year to enforce payment thereof. *New.* "Amount payable"

94. The value of all benefits, other than a distribution or payment of capital, to a corporation during a fiscal year from or under a trust, contract, arrangement or power of appointment, irrespective of when made or created, shall be included in computing the corporation's income for the fiscal year. *New.* Benefits under trust, contract, etc.

95.—(1) Where an amount in respect of a corporation's income interest in a trust has been included in computing the corporation's income for a fiscal year by virtue of subsection 1 of section 93 or subsection 2 of this section, there may be deducted in computing the corporation's income for the fiscal year the lesser of, Income interest in trust

- (a) the amount so included in computing its income for the fiscal year; and
 - (b) the amount, if any, by which the cost to the corporation of the income interest exceeds the aggregate of all amounts in respect of the interest that were deductible by virtue of this subsection in computing the corporation's income for previous fiscal years.
- New.*

(2) Where in a fiscal year a corporation disposes of an income interest in a trust, Disposition by corporation of income interest

- (a) except where subsection 3 is applicable, there shall be included in computing the corporation's income for the fiscal year the proceeds of the disposition;
- (b) any taxable capital gain or allowable capital loss of the corporation from the disposition shall be deemed to be nil; and
- (c) for greater certainty, the cost to the corporation of each property received by it as consideration for the disposition is the fair market value of the property at the time of the disposition. *New.*

(3) For greater certainty, where at any time any property of a trust has been distributed by the trust to a corporation that was a beneficiary under the trust in satisfaction of all or any part of its income interest in the trust, the trust shall be Proceeds of disposition of income interest

deemed to have disposed of property for the proceeds of disposition equal to the fair market value of the property at that time. *New.*

Disposition
by
corporation
of capital
interest

96.—(1) Where a corporation has disposed of a capital interest in a trust,

- (a) for the purposes of computing the corporation's capital gain, if any, from the disposition of the interest, the adjusted cost base to the corporation thereof immediately before the disposition shall be deemed to be an amount equal to the greater of the adjusted cost base to it thereof otherwise determined immediately before that time and the cost amount to it of the interest immediately before that time; and
- (b) for greater certainty, for the purposes of computing the corporation's allowable capital loss, if any, from the disposition of the interest, the adjusted cost base to the corporation thereof immediately before the disposition is the adjusted cost base to it of the interest immediately before that time as determined under this Act without reference to clause *a*,

except that where the interest was an interest in an *inter vivos* trust not resident in Canada that was purchased by the corporation, clause *a* does not apply in respect of the disposition thereof except where subsection 2 is applicable in respect of any distribution of property by the trust to the corporation in satisfaction of all or any part of the interest. *New.*

Distribution
by trust in
satisfaction
of capital
interest

(2) Where at any time any property of a trust has been distributed by the trust to a corporation that was a beneficiary under the trust in satisfaction of all or any part of the corporation's capital interest in the trust, the following rules apply:

- (a) the trust shall be deemed to have disposed of the property for proceeds of disposition equal to its cost amount to the trust immediately before that time;
- (b) the corporation shall be deemed to have acquired the property at a cost equal to the aggregate of its cost amount to the trust immediately before that time and that proportion of the amount, if any, by which,
 - (i) the adjusted cost base to the corporation of the capital interest immediately before that time as determined for the purposes of clause *b* of subsection 1,

exceeds

- (ii) the cost amount to the corporation of the capital interest immediately before that time,

that the cost amount to the trust of the property immediately before that time is of the amount determined under subclause ii;

- (c) the corporation shall be deemed to have disposed of all or part, as the case may be, of the capital interest for proceeds equal to the cost at which the corporation is deemed by clause *b* to have acquired the property, minus the amount of any debt assumed by the corporation or of any other legal obligation assumed by it to pay any amount, if the distribution of the property to the corporation was conditional upon the assumption by the corporation of the debt or obligation; and
- (d) where the property so distributed was depreciable property of a prescribed class of the trust and the amount that was the capital cost to the trust of that property exceeds the cost at which the corporation is deemed by this section to have acquired the property, for the purposes of sections 17 and 24 and any regulations made under clause *a* of subsection 1 of section 24,
 - (i) the capital cost to the corporation of the property shall be deemed to be the amount that was the capital cost of the property to the trust, and
 - (ii) the excess shall be deemed to have been allowed to the corporation in respect of the property under regulations made under clause *a* of subsection 1 of section 24 in computing income for fiscal years before the acquisition by the corporation of the property. *New.*

(3) Where the property referred to in subsection 2 that was distributed by a trust to a corporation was property, other than capital property that was not depreciable property, for the purposes of determining the cost to the corporation of the property under clause *b* of subsection 2, except for the purposes of clause *b* of subsection 2, as it applies to determine the corporation's proceeds of disposition of its capital interest under clause *c* of subsection 2, the reference in clause *b* of sub-

Determina-
tion of cost
of property
other than
non-
depreciable
capital
property

section 2, the reference in clause *b* of subsection 2 to “that proportion” shall be read as a reference to “one-half of that proportion”. *New.*

Interpre-
tation

97.—(1) In this subdivision,

(a) “beneficiary” under a trust includes a person beneficially interested therein;

(b) “capital interest” of a corporation in a trust means a right, whether immediate or future and whether absolute or contingent, of a corporation that is a beneficiary under the trust to, or to receive, all or any part of the capital of a trust;

(c) “cost amount” of any capital interest of a corporation in any trust at any time means,

(i) in any case where any money or property of the trust has been distributed by the trust to the corporation in full satisfaction of the whole of its capital interest, whether on the winding-up of the trust or otherwise, the aggregate of the money so distributed and all amounts each of which is the cost amount to the trust, immediately before the distribution, of each such property so distributed to the corporation, and

(ii) in any other case, that proportion of the amount, if any, by which the aggregate of all money of the trust on hand immediately before that time and all amounts each of which is the cost amount to the trust, immediately before that time, of each property of the trust exceeds the aggregate of all amounts each of which is the amount of any debt owing by the trust, or of any other obligation of the trust to pay any amount, that was outstanding immediately before that time, that,

(A) the fair market value at that time of the capital interest in the trust,

is of,

(B) the fair market value at that time of all capital interests in the trust;

(d) “income interest” of a corporation in a trust means a right, whether immediate or future and whether

absolute or contingent, of a corporation that is a beneficiary under the trust to, or to receive, all or any part of the income of the trust;

(e) "*inter vivos* trust" means a trust other than a testamentary trust;

(f) "trust" includes an *inter vivos* trust but, in sections 94 to 96, does not include,

(i) a unit trust, or

(ii) a trust governed by a registered pension fund or plan, an employees profit sharing plan, a registered supplementary unemployment benefit plan, a registered retirement savings plan or a deferred profit sharing plan. *New.*

(2) For the purposes of this Act, a trust is a unit trust at any particular time if, at that time, it was an *inter vivos* trust the interest of each beneficiary under which was described by reference to units of the trust, and, ^{Meaning of expression "unit trust"}

(a) the issued units of the trust included,

(i) units having conditions attached thereto that included conditions requiring the trust to accept, at the demand of the holder thereof and at prices determined and payable in accordance with the conditions the surrender of the units, or fractions or parts thereof, that are fully paid, or

(ii) units qualified in accordance with prescribed conditions relating to the redemption of the units by the trust,

and the fair market value of such of the units as had conditions attached thereto that included such conditions or as were so qualified, as the case may be, was not less than 95 per cent of the fair market value of all of the issued units of the trust, such fair market values being determined without regard to any voting rights attaching to units of the trust; or

(b) throughout the fiscal year in which the particular time occurred it complied with the following conditions,

(i) it was resident in Canada,

- (ii) its only undertaking was the investing of funds of the trust,
- (iii) at least 80 per cent of its property throughout the year consisted of shares, bonds, mortgages, marketable securities, or cash, or of rights to or interest in any rental or royalty computed by reference to the amount or value of production from an oil or gas well, or from a mineral resource, situated in Canada,
- (iv) not less than 95 per cent of its income for the fiscal year was derived from, or from dispositions of, investments described in sub-clause iii,
- (v) at no time in the fiscal year did more than 10 per cent of its property consist of shares, bonds or securities of any one corporation or debtor other than Her Majesty in right of Canada or a province or a Canadian municipality, and
- (vi) all holdings of and transactions, if any, in its units accorded with prescribed conditions relating to the number of its unit holders, dispersal of ownership of its units and public trading of its units. *New.*

Meaning of
"income"
of trust

(3) For the purposes of clause *d* of subsection 1 of section 97, the income of a trust is its income computed without reference to the provisions of this Act. *New.*

DIVISION C—COMPUTATION OF TAXABLE INCOME

Deductions
permitted

98.—(1) For the purpose of computing the taxable income of a corporation for a fiscal year, there may be deducted from its income for the fiscal year such of the following amounts as are applicable:

Charitable
donations

- (a) the aggregate of gifts made by the corporation in the fiscal year, and in the immediately preceding fiscal year, to the extent of the amount thereof that was not deductible under this Act in computing the taxable income of the corporation for that immediately preceding fiscal year, to,
 - (i) registered Canadian charitable organizations,
 - (ii) registered Canadian amateur athletic associations,

- (iii) housing corporations resident in Canada and exempt from tax under Part II by clause *f* of subsection 1 of section 122,
- (iv) Her Majesty in right of any province of Canada other than Ontario and any Canadian municipality,
- (v) the United Nations or agencies thereof,
- (vi) universities outside Canada prescribed to be universities the student body of which ordinarily includes students from Canada, and
- (vii) charitable organizations outside Canada to which Her Majesty in right of Canada has made a gift during the fiscal year or the 12 months immediately preceding that fiscal year,

not exceeding 20 per cent of the income of the corporation for the fiscal year, if payment of the amounts given is proven by filing receipts or photostatic reproductions thereof with the Minister that, in the case of a donation to a registered Canadian charitable organization or registered Canadian amateur athletic association, contain prescribed information; R.S.O. 1970, c. 91, s. 37 (1) 1.

- (b) the aggregate of gifts made by the corporation in the fiscal year, and in the immediately preceding fiscal year, to the extent of the amount thereof that was not deductible under this Act in computing the taxable income of the corporation for that immediately preceding fiscal year, to Her Majesty in right of Canada and of Ontario, not exceeding the amount remaining, if any, when the amount deducted for the fiscal year under subsection 1 is deducted from the income of the corporation for the fiscal year, if payment of the amounts given is proven by filing receipts or photostatic reproductions thereof with the Minister. R.S.O. 1970, c. 91, s. 37 (1) 2.

(2) Clauses *a* and *b* of subsection 1 do not apply to permit a corporation to deduct, for the purposes of computing its taxable income for a fiscal year, any amount in respect of gifts made by the corporation in the fiscal year, until the amount deductible under those clauses in respect of gifts made by the corporation in the immediately preceding fiscal year has been deducted. R.S.O. 1970, c. 91, s. 37 (5).

Gifts made by
partnership

(3) Where a corporation was, at the end of a fiscal year of a partnership, a member of the partnership, the corporation's share of any amount that would, if the partnership were a person, be a gift made by the partnership to any donee, shall, for the purposes of this section, be deemed to be a gift made by the corporation in its fiscal year in which the fiscal year of the partnership ended, to that donee. *New.*

Interpre-
tation

(4) In this section,

(a) "registered Canadian amateur athletic association" means an association that was created under any law in force in Canada, that is resident in Canada, and that,

1970-71, c. 63
(Can.)

(i) is a person described in clause *l* of subsection 1 of section 149 of the *Income Tax Act* (Canada), and

(ii) has, as its primary purpose and its primary function, the promotion of amateur athletics in Canada on a nationwide basis; and *New*

(b) "registered Canadian charitable organization" means,

(i) a charitable organization in Canada exempt from tax under Part I of the *Income Tax Act* (Canada) by clause *f* of subsection 1 of section 149 thereof or a corporation or trust resident in Canada exempt from tax under Part I of the *Income Tax Act* (Canada) by clause *g* or *h* of subsection 1 of section 149 thereof, or

(ii) a branch, section, parish, congregation or other division of an organization described in sub-clause *i* that receives donations on its own behalf,

that, except as otherwise designated by the Minister by regulation, has been registered as a Canadian amateur athletic association or a Canadian charitable organization, as the case may be, in respect of the same year by the Minister of National Revenue for Canada under subsection 8 of section 110 of the *Income Tax Act* (Canada) and except as otherwise designated by the Minister, the registration has not been revoked by the Minister of National Revenue for Canada under subsection 2 of section 168 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 37 (6) and (8).

99.—(1) For the purpose of computing the taxable income of a corporation for a fiscal year, there may be deducted from the income for the fiscal year such of the following amounts as are applicable:

- (a) non-capital losses for the five fiscal years immediately preceding and the fiscal year immediately following the fiscal year, but no amount is deductible in respect of non-capital losses from the income of any fiscal year except to the extent of the corporation's income for the fiscal year minus all deductions permitted by the provisions of this Division other than this paragraph or clause *b*; R.S.O. 1970, c. 91, s. 37 (1) 3. Non-capital
losses
- (b) net capital losses for fiscal years preceding and the fiscal year immediately following the fiscal year, but no amount is deductible in respect of net capital losses from the income of any fiscal year except to the extent of the lesser of,
 - (i) the amount, if any, by which the corporation's income for the fiscal year exceeds the aggregate of all deductions permitted by the provisions of this Division other than this clause, and
 - (ii) the amount, if any, determined under clause *b* of subsection 2 in respect of the corporation for the fiscal year; *New*Net capital
losses
- (c) restricted farm losses of the corporation for the five fiscal years immediately preceding and the fiscal year immediately following the fiscal year, but no amount is deductible in respect of a restricted farm loss from the income for any fiscal year except to the extent of the lesser of,
 - (i) the corporation's income for the fiscal year minus all deductions permitted by the provisions of this Division other than this subsection, and
 - (ii) the corporation's incomes for the fiscal year from all farming businesses carried on by it. R.S.O. 1970, c. 91, s. 37 (4).Restricted
farm
losses

(2) For the purposes of subsection 1,

- (a) an amount in respect of a non-capital loss, net capital loss or restricted farm loss, as the case may be, for a

Limitation
on
deductibility

fiscal year is only deductible to the extent that it exceeds the aggregate of,

- (i) amounts previously deductible in respect of that loss under this section, and
 - (ii) amounts previously subtracted in respect of that loss under clause *c* or *d* of subsection 1 of section 186 of the *Income Tax Act* (Canada) in determining amounts on which tax under Part IV of that Act has become payable; and
- (b) no amount is deductible in respect of a non-capital loss, net capital loss or restricted farm loss, as the case may be, for any fiscal year until,
- (i) in the case of a non-capital loss, the deductible non-capital losses,
 - (ii) in the case of net capital loss, the deductible net capital losses, and
 - (iii) in the case of a restricted farm loss, the deductible restricted farm losses,

for previous fiscal years have been deducted. R.S.O. 1970, c. 91, s. 37 (1) and (2).

Application
of subs. 1
where
change in
control

(3) Subsection 1 does not apply to permit a corporation to deduct, for the purpose of computing its taxable income for a fiscal year, any amount in respect of its net capital loss for a preceding fiscal year if, before the end of the fiscal year, control of the corporation has been acquired by a person or persons who did not at the end of that preceding fiscal year, control the corporation. R.S.O. 1970, c. 91, s. 37 (2).

Idem

(4) Subsection 1 does not apply to permit a corporation to deduct, for the purpose of computing its taxable income for a fiscal year, such portion of its non-capital loss for a preceding fiscal year as may reasonably be regarded as its loss from carrying on any particular business if,

- (a) control of the corporation has been acquired, before the end of the fiscal year, by a person or persons who did not, at the end of that preceding fiscal year, control the corporation and the corporation was not, during the fiscal year, carrying on that business; or
- (b) control of the corporation was acquired, before the end of the fiscal year and after the winding-up or dis-

continuance of that business, by a person or persons who did not control the corporation at any time during that preceding fiscal year when that business was being carried on. R.S.O. 1970, c. 91, s. 37 (2, 3).

(5) For the purposes of clause *h* of subsection 1 of section 55 and this section, any loss of a corporation for a fiscal year from a farming business shall, after the corporation disposes of the land used in that farming business and to the extent that the amount of such loss is required by clause *h* of subsection 1 of section 55 to be added in computing the adjusted cost base to the corporation of the land immediately before the disposition, be deemed not to be a loss. *New.* Limitation

(6) For the purposes of this section, any loss of a corporation for a fiscal year from a farming business shall, to the extent that such loss is included in the amount of any deduction permitted by section 90 in computing the corporation's income for a subsequent fiscal year, be deemed not to be a loss of the corporation for the purpose of computing its taxable income for that subsequent fiscal year or any fiscal year subsequent thereto. R.S.O. 1970, c. 91, s. 37 (4). Idem

(7) In this section,

Inter-
pretation

(a) "net capital loss" of a corporation for a fiscal year means the amount, if any, by which its allowable capital losses for the fiscal year from dispositions of property, other than listed personal property, exceeds the aggregate of its taxable capital gains for the fiscal year from dispositions of property, other than listed personal property, and its taxable net gains for the fiscal year from dispositions of its listed personal property;

(b) "non-capital loss" of a corporation for a fiscal year means the amount, if any, by which,

(i) the aggregate of all amounts each of which is the corporation's loss for the fiscal year from a business or property and all amounts deductible under section 100 from the corporation's income for the fiscal year,

exceeds,

(ii) the amount determined under clause *c* of section 12; and

(c) a reference to any amount determined under any clause or subclause of section 12 for a fiscal year Reference
in section 12

shall be read as a reference to, in the case of a corporation to which subsection 2 of section 2 applies, the amount determined under any such clause or subclause for the fiscal year for the purposes of section 101. *New.*

Deduction
of taxable
dividends
received by
corporation
resident in
Canada

100.—(1) Where a corporation in a fiscal year has received a taxable dividend from,

- (a) a taxable Canadian corporation;
- (b) a corporation resident in Canada, other than a non-resident-owned investment corporation, and controlled by it; or
- (c) a corporation non-resident of Canada more than 25 per cent of the issued share capital of which, having full voting rights under all circumstances, belongs to the corporation receiving the dividend,

an amount equal to the dividend may be deducted from the income of the receiving corporation for the fiscal year for the purpose of computing its taxable income. *New.*

Dividends
received
from non-
resident
corporation
1970-71, c. 63
(Can.)

(2) Where a corporation in a fiscal year received a taxable dividend from a non-resident corporation that is taxable under subsection 3 of section 2 of the *Income Tax Act* (Canada) for that fiscal year, the corporation shall deduct from its income for the same fiscal year the same amount in respect of such dividends as the corporation was allowed to deduct under subsection 2 of section 112 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 38 (2).

Loss from
transaction
involving
share on
which
deductible
dividend
received

(3) Where an amount in respect of a taxable dividend received by a corporation, other than a trader or dealer in securities, in a fiscal year is, by virtue of this section or subsection 6 of section 138 of the *Income Tax Act* (Canada) deductible from the corporation's income for the fiscal year, the amount of any loss arising from transactions with reference to the share on which the dividend was received shall, unless it is established by the corporation that,

- (a) the corporation owned the share 365 days or longer before the loss was sustained; and
- (b) the corporation did not, at the time the dividend was received, own more than 5 per cent of the issued shares of any class of the capital stock of the corporation from which the dividend was received,

be deemed to be the amount of that loss otherwise determined minus the aggregate of all amounts received by the corporation in respect of taxable dividends on the share, to the extent that the amounts thereof were deductible from the corporation's income for any fiscal year by virtue of this section or subsection 6 of section 138 of the *Income Tax Act* (Canada). R.S.O. 1970-71, c. 63 (Can.) 1970, c. 91, s. 38 (3).

(4) The amount of any loss of a corporation that is a trader or dealer in securities arising from transactions with reference to any share on which an amount in respect of a dividend has been received by it shall, unless it is established by that corporation that,

Loss sustained by trader or dealer in securities

- (a) it owned the share 365 days or longer before the loss was sustained; and
- (b) it did not, at the time the dividend was received, own more than 5 per cent of the issued shares of any class of the capital stock of the corporation from which the dividend was received,

be deemed to be the amount of that loss otherwise determined, minus the aggregate of all amounts received by the corporation in respect of taxable dividends on the share.

(5) For the purposes of this section,

Meaning of certain expressions

- (a) "taxable dividend" does not include a capital gains dividend within the meaning assigned by subsection 1 of section 109; and
- (b) one corporation is controlled by another corporation if more than 50 per cent of its issued share capital, having full voting rights under all circumstances, belongs to the other corporation, to persons with whom the other corporation does not deal at arm's length, or to the other corporation and persons with whom the other corporation does not deal at arm's length. *New.*

DIVISION D—TAXABLE INCOME EARNED IN CANADA BY NON-RESIDENTS

101. For the purposes of this Act, the taxable income of a corporation to which subsection 2 or 3 of section 2 applies is the amount of its income for the fiscal year that would be determined under section 12 if,

Non-residents' taxable income earned in Canada

- (a) it had no income other than,

- (i) incomes from businesses carried on in Canada,
 - (ii) taxable capital gains from dispositions described in clause *b*,
 - (iii) income from property that is real property situated in Canada or an interest therein,
 - (iv) the amount, if any, by which any amount required by subsection 2 of section 95 to be included in computing its income for the fiscal year as proceeds of the disposition of an income interest in a trust resident in Canada exceeds the amount in respect of that income interest that would, if it were liable to taxation by virtue of subsection 1 of section 2 throughout the fiscal year, be deductible under subsection 1 of section 95,
 - (v) proceeds of disposition by it in the fiscal year of a property that is a Canadian resource property, within the meaning assigned by subsection 12 of section 63, or that would have been such a property if it had been acquired by it after 1971 to the extent not included in computing its income from a business carried on by it in Canada;
- (*b*) the only taxable capital gains and allowable capital losses referred to in clause *b* of section 12 were taxable capital gains and allowable capital losses from dispositions of property each of which was a disposition of a property, in this Act referred to as a "taxable Canadian property", that was a property referred to in any of the subclauses i to viii of clause *b* of subsection 1 of section 115 of the *Income Tax Act* (Canada); and
- (*c*) the only losses referred to in clause *d* of section 12 were losses from a business carried on by it in Canada or from real property situated in Canada or an interest therein,

1970-71, c. 63
(Can.)

minus the aggregate of such of the deductions from income permitted for the purpose of computing taxable income as may reasonably be considered wholly applicable and of such part of any other of the said deductions as may reasonably be considered applicable. R.S.O. 1970, c. 91, s. 5 (36-38).

DIVISION E—COMPUTATION OF INCOME
TAX PAYABLE

102. The tax payable by a corporation under this Part ^{Rate} upon its taxable income or taxable income earned in Canada, as the case may be, in this section referred to as the “amount taxable”, is 12 per cent of the amount taxable. R.S.O. 1970, c. 91, s. 5 (1).

103. There may be deducted from the tax otherwise pay- ^{Deduction} _{from} ^{income tax} able under this Part for a fiscal year by a corporation an amount equal to 12 per cent of that portion of its taxable income or taxable income earned in Canada, as the case may be, which is earned in the fiscal year in each jurisdiction other than Ontario, determined under rules prescribed by the regulations. R.S.O. 1970, c. 91, s. 5 (2).

104. Where a corporation has a permanent establishment ^{Foreign} _{tax} ^{deduction} in Ontario and has received income in the fiscal year in the form of dividends, interest, rents or royalties that was derived from sources within a jurisdiction outside Canada or is deemed to have received income in the form of dividends and interest from a country outside Canada by virtue of the provisions of subsection 5 of section 148 of the *Income Tax Act* (Canada), here- ^{1970-71, c. 63} _(Can.) inafter in this section referred to as “foreign investment income”, or where a corporation having received foreign investment income in the fiscal year from sources within a jurisdiction outside Canada also received income in the fiscal year from a business carried on by it in that jurisdiction, hereinafter in this section referred to as “foreign business income”, and where, for the purposes of subsection 2 of section 126 of the *Income Tax Act* (Canada), such foreign investment income has not been included as part of such foreign business income, and, for the purpose of allocating taxable income to jurisdictions outside Ontario in accordance with the regulations made under section 103, has been excluded when calculating its gross revenue, or any part thereof, and where the corporation is entitled to a deduction under section 126 of the *Income Tax Act* (Canada), hereinafter in this section referred to as “foreign tax credit”, with respect to any income or profits tax paid to such jurisdiction on such foreign investment income or on such foreign investment income and foreign business income or is deemed to have been paid as income or profits tax to such jurisdiction by virtue of the provisions of subsection 5 of section 148 of the *Income Tax Act* (Canada), the corporation may deduct from the tax otherwise payable under this Part for the fiscal year an amount equal to the lesser of,

- (a) 10 per cent of that part of such foreign investment income that is included in that portion of taxable

income that remains after deducting from such taxable income the portions thereof deemed to have been earned in jurisdictions other than Ontario for the purpose of section 103; or

(b) the proportion of the deficiency between the foreign tax credit that would be allowed if no provincial tax abatement under section 124 of the *Income Tax Act* (Canada) were applicable and the foreign tax credit that is allowed when the provincial tax abatement provided by section 124 of the *Income Tax Act* (Canada) has been applied which,

(i) the amount of that portion of its taxable income for the fiscal year that is deemed to have been earned in Ontario measured in accordance with clause *a* of subsection 4 of section 124 of the *Income Tax Act* (Canada),

1970-71, c. 63
(Can.)

bears to,

(ii) the total amount of the portions of its taxable income for the fiscal year that are deemed to have been earned in the provinces of Canada measured in accordance with clause *a* of subsection 4 of section 124 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 5 (39) (*a*).

Logging
tax
deduction

105.—(1) There may be deducted from the tax otherwise payable under this Part for a fiscal year by a corporation an amount equal to one-third of the tax payable by the corporation for the same fiscal year under *The Logging Tax Act*. R.S.O. 1970, c. 91, s. 5 (40).

R.S.O. 1970,
c. 258

Interpre-
tation

(2) In subsection 1, “tax otherwise payable” means the tax for the fiscal year otherwise payable by the corporation under this Part after making any deduction applicable under section 103. R.S.O. 1970, c. 91, s. 5 (41).

5% invest-
ment tax
deduction

106.—(1) There may be deducted from the tax otherwise payable under this Part for a fiscal year by a corporation an amount equal to 5 per cent of the cost of machinery and equipment acquired and used in that fiscal year by the corporation which machinery and equipment is acquired pursuant to an agreement entered into after the 26th day of April, 1971, and which shall be used by the corporation solely in Ontario prior to the 1st day of April, 1973, for the purpose of earning income. R.S.O. 1970, c. 91, s. 5*a* (2).

Deemed
acquisition
and use

(2) For the purposes of this section, where the machinery and equipment in respect of which the provisions of sub-

section 1 would otherwise apply, is not used by the corporation in the fiscal year in which it is acquired, such machinery and equipment shall be deemed to have been acquired and used by the corporation in the fiscal year in which it is first used. R.S.O. 1970, c. 91, s. 5a (2a).

(3) Any amount which may be deducted under subsection 1¹ may be deducted in subsequent fiscal years to the extent that the deduction allowed under subsection 1 exceeds the tax otherwise payable by the corporation in the previous fiscal years and, except as herein provided, no deduction shall be allowed in any fiscal year of the corporation ending after the 31st day of March, 1973, except that with respect to the first fiscal year of the corporation ending after the 31st day of March, 1973, the amount which may be deducted from the tax otherwise payable for that fiscal year shall not exceed that portion of the tax otherwise payable for that fiscal year that the number of days in that fiscal year prior to the 1st day of April, 1973, bears to 365. R.S.O. 1970, c. 91, s. 5a (3).

(4) Notwithstanding subsection 3, where a corporation has^{Idem} a net loss, any amount which may be deducted under subsection 1 may be deducted in subsequent fiscal years to the extent that the deduction allowed under subsection 1 exceeds the tax otherwise payable by the corporation in the previous fiscal years and, except as herein provided, no deduction shall be allowed in any fiscal year of the corporation ending after the 31st day of March, 1974, except that with respect to the first fiscal year of the corporation ending after the 31st day of March, 1974 the amount which may be deducted from the tax otherwise payable for that fiscal year shall not exceed the portion of the tax otherwise payable for that fiscal year that the number of days in that fiscal year prior to the 1st day of April, 1974, bears to 365. R.S.O. 1970, c. 91, s. 5a (4).

(5) In this section,

Interpre-
tation

(a) "machinery and equipment" means machinery and equipment prescribed by the regulations, but does not include automobiles and trucks, any property that is described in the corporation's inventory or that part of any property in respect of which a loan is made under *The Ontario Development Corporation Act*, or *The Northern Ontario Development Corporation Act*; R.S.O. 1970, c. 91, s. 5a (1) (a).

R.S.O. 1970,
cc. 308, 299

(b) "net loss" means the amount, if any, by which the non-capital losses exceed the incomes of a corporation for the fiscal years ending between the 26th day of April, 1971, and the 1st day of April, 1973, except that,

- (i) where the provisions of subsection 4 apply with respect to the first fiscal year of the corporation ending after the 31st day of March, 1973, in determining the net loss for the purpose of this section there shall be included that portion of the non-capital loss or income for that fiscal year that the number of days in that fiscal year prior to the 1st day of April, 1973, bears to 365, and
- (ii) where, for the purposes of section 103, part of the taxable income of a corporation for a fiscal year is deemed to have been earned by the corporation in a jurisdiction outside Ontario, or, where the taxable income for that fiscal year is nil and, for the purposes of section 132, part of the taxable paid-up capital of the corporation is deemed to have been used in a jurisdiction outside Ontario, the non-capital loss or income for that fiscal year shall, in determining the net loss for the purpose of this section, be reduced in the same ratio that the tax payable under section 103 or 132, as the case may be, is reduced for that fiscal year; R.S.O. 1970, c. 91, s. 5a (1) (b)

(c) "tax otherwise payable" means the tax for the fiscal year otherwise payable by the corporation under this Part after making any deduction applicable under section 103. R.S.O. 1970, c. 91, s. 5a (1) (c).

Tax on
tax

107. Where under a contract, will or trust, made or created before the 14th day of May, 1953, a person is required to make a payment to a corporation and is required by the terms of the contract, will or trust to pay an additional amount measured by reference to tax payable by such corporation under Part I of the *Income Tax Act* (Canada) and Part II of this Act by reason of the payment,

1970-71, c. 63
(Can.)

- (a) the tax payable by the corporation under Part II of this Act for the fiscal year in or in respect of which such a payment is made or becomes payable is the amount that the tax of the corporation under Part II of this Act would be if no amount under the contract were included in computing its income for the fiscal year plus,
 - (i) the amount by which its tax under Part II of this Act would be increased by including in computing its income,

- (A) the payment, and
- (B) the amount by which its tax under Part I of the *Income Tax Act* (Canada) ^{1970-71, c. 63 (Can.)} would be increased by including the payment in computing its income, and
- (ii) the amount by which the tax of the corporation under Part II of this Act would be further increased by including, in computing its income for the fiscal year, the amount fixed by subclause i or the additional payment, whichever is the lesser; and
- (b) if the person required to make the payment is a corporation and would otherwise be entitled to deduct the amounts payable under such a contract in computing its income for a fiscal year, such corporation is not entitled to deduct the amount determined under subclause ii of clause a. *New.*

DIVISION F—SPECIAL RULES
APPLICABLE IN CERTAIN CIRCUMSTANCES

Bankruptcies

108.—(1) Where a corporation has become a bankrupt, the ^{Where corporation bankrupt} following rules are applicable:

- (a) the trustee in bankruptcy shall be deemed to be the agent of the bankrupt for all purposes of this Act;
- (b) the estate of the bankrupt shall be deemed not to be a trust or an estate for the purposes of this Act;
- (c) the income and the taxable income of the corporation for any fiscal year of the corporation during which it was a bankrupt and for any subsequent fiscal year shall be calculated as if,
 - (i) the property of the bankrupt did not pass to and vest in the trustee in bankruptcy on the receiving order being made or the assignment filed but remained vested in the bankrupt, and
 - (ii) any dealing in the estate of the bankrupt or any act performed in the carrying on of the business of the bankrupt estate by the trustee was done as agent on behalf of the bankrupt and any income of the trustee from

such dealing or carrying on is income of the bankrupt and not of the trustee;

- (d) a fiscal year of the corporation shall be deemed to have commenced on the day the corporation became a bankrupt and a fiscal year of the corporation that would otherwise have ended after the corporation became a bankrupt shall be deemed to have ended on the day immediately before the day on which the corporation became a bankrupt;
- (e) where, in the case of any fiscal year of the corporation ending during the period the corporation is a bankrupt, the corporation fails to pay the tax payable by the corporation under this Act for any such fiscal year, the corporation and the trustee in bankruptcy are jointly and severally liable to pay the tax, except that,
 - (i) the trustee is only liable to the extent of the property of the bankrupt in his possession, and
 - (ii) payment by either of them shall discharge the joint obligation;
- (f) in the case of any fiscal year of the corporation ending during the period the corporation is a bankrupt, the corporation shall be deemed not to be associated with any other corporation in the year; and
- (g) where an absolute order of discharge is granted in respect of the corporation, for the purposes of section 99 any loss of the corporation for any fiscal year preceding the fiscal year in which the order of discharge was granted is not deductible by the corporation in computing its taxable income for the fiscal year of the corporation in which the order was granted or any subsequent fiscal year. R.S.O. 1970, c. 91, s. 40 (1).

"Bankrupt" and "estate of bankrupt" defined
R.S.C. 1970, c. B-4

- (2) In this section, "bankrupt" and "estate of the bankrupt" have the meanings assigned by the *Bankruptcy Act* (Canada). R.S.O. 1970, c. 91, s. 40 (2).

Investment Corporations and Mutual Fund Corporations

Election re capital gains dividend
1970-71, c. 63 (Can.)

- 109.**—(1) Where a corporation is an investment corporation, as defined by subsection 3 of section 130 of the *Income Tax Act* (Canada), or a mutual fund corporation, as defined by sub-

section 8 of section 131 of such Act, and the corporation has elected in respect of the full amount of a dividend that has become payable by it at any particular time after 1971 in accordance with subsection 1 of section 131 of the *Income Tax Act* (Canada), ^{1970-71, c. 63 (Can.)}

- (a) the dividend shall be deemed to be a capital gains dividend to the extent that it does not exceed the corporation's capital gains dividend account as defined by clause *b* of subsection 6 of section 131 of the *Income Tax Act* (Canada) at the particular time; and
- (b) notwithstanding anything in this Act, any amount received by a corporation in a fiscal year as on account of or in lieu of payment of, or in satisfaction of the dividend shall not be included in computing the corporation's income for the fiscal year as income from a share of the capital stock of the paying corporation, but shall be deemed to be a capital gain of the corporation for the fiscal year from the disposition of capital property. *New.*

(2) Where a corporation has in a fiscal year become entitled to a refund by virtue of subsection 2 of section 131 of the *Income Tax Act* (Canada), the Minister, ^{Capital gains refund to mutual fund corporation}

- (a) may upon mailing the notice of assessment for the fiscal year, refund without application therefor an amount equal to 25 per cent of its capital gains refund for the fiscal year determined under subsection 2 of section 131 of the *Income Tax Act* (Canada) for the same fiscal year; and
- (b) shall make such a refund after mailing the notice of assessment if application therefor has been made in writing by the corporation within 4 years from the end of the fiscal year. *New.*

(3) Instead of making a refund that might otherwise be made under subsection 2, the Minister may, where the corporation is liable or about to become liable to make any payment under this Act, apply the amount that would otherwise be refunded to that other liability and notify the corporation of that action. *New.* ^{Application to other liability}

(4) Section 78 does not apply to deem a dividend to have been paid by a corporation to any of its shareholders, or to deem any of the shareholders of a corporation to have received a dividend on any shares of the capital stock of the corporation, if at the time the dividend would, but for this subsection, be ^{Application of s. 78}

deemed by section 78 to have been so paid or received, as the case may be, the corporation was a mutual fund corporation. *New.*

Non-Resident-Owned Investment Corporations

Computation
of income

110.—(1) The income of a non-resident-owned investment corporation for a fiscal year shall be computed as if its only income was taxable capital gains and allowable capital losses referred to in clause *b* of section 12 from dispositions of taxable Canadian property or property that would be taxable Canadian property if at no time in the fiscal year the corporation had been resident in Canada. R.S.O. 1970, c. 91, s. 45 (1).

Computation
of taxable
income

(2) The taxable income of a non-resident-owned investment corporation for a fiscal year is its income determined under subsection 1, minus its net capital losses for fiscal years preceding and the fiscal year immediately following the fiscal year, as provided for by section 99. *New.*

1971 un-
distributed
income and
capital
surplus on
hand

(3) For the purposes of this Act,

(a) in computing the 1971 undistributed income on hand of a non-resident-owned investment corporation at any time, there shall be deducted the amount, if any, by which,

(i) the corporation's 1971 undistributed income on hand at that time otherwise determined,

exceeds

(ii) the corporation's surplus determined in prescribed manner at the end of its 1971 fiscal year, for fiscal years ending before 1972 for which it was not taxable under section 70 of the *Income Tax Act* (Canada) as it read in its application to the 1971 fiscal year; and

1970-71, c. 63
(Can.)

(b) in computing the 1971 capital surplus on hand of a non-resident-owned investment corporation at any time, there shall be added to the amount thereof otherwise determined the amount of the excess described in clause *a*. *New.*

Election re
capital
gains
dividend

(4) Where at any particular time after 1971 a dividend has become payable by a non-resident-owned investment corporation to shareholders of any class of shares of its capital stock, if the corporation so elects in respect of the full amount of the dividend, in prescribed manner and in prescribed form and at or

before the particular time or the first day on which any part of the dividend was paid if that day is earlier than the particular time, the following rules apply:

- (a) the dividend shall be deemed to be a capital gains dividend to the extent that the portion thereof in excess of the corporation's 1971 undistributed income on hand immediately before the particular time does not exceed the corporation's capital gains dividend account immediately before the particular time; and
- (b) any amount received by another non-resident-owned investment corporation in a fiscal year as, on account or in lieu of payment of, or in satisfaction of the capital gains dividend shall not be included in computing the corporation's income for the fiscal year. *New.*

(5) In this section,

Interpre-
tation

- (a) "Canadian property" means property other than foreign property within the meaning assigned by section 206 of the *Income Tax Act* (Canada); 1970-71, c. 63
(Can.)
- (b) "capital gains dividend account" of a non-resident-owned investment corporation at any particular time means the amount, if any, by which the aggregate of the following amounts in respect of the period commencing January 1, 1972 and ending immediately after its last fiscal year ending before the particular time, namely,
 - (i) the corporation's capital gains for fiscal years ending in the period from dispositions in the period of Canadian property or shares of another non-resident-owned investment corporation, and
 - (ii) amounts received by the corporation in the period as, on account or in lieu of payment of, or in satisfaction of capital gains dividends from other non-resident-owned investment corporations,

exceeds the aggregate of

- (iii) the corporation's capital losses for fiscal years ending in the period from dispositions in the period of Canadian property or shares

of Canadian property or shares of another non-resident-owned investment corporation,

(iv) 25 per cent of the amount, if any, by which the aggregate of the corporation's capital gains for fiscal years ending in the period from dispositions in the period of taxable Canadian property or property that would be taxable Canadian property if at no time in the period the corporation had been resident in Canada, exceeds the aggregate of its capital losses for those fiscal years from dispositions in the period of such property, and

(v) all capital gains dividends that became payable by the corporation before the particular time;

(c) "non-resident-owned investment corporation" means a corporation incorporated in Canada that, throughout the whole of the period commencing on the later of June 18, 1971 and the day on which it was incorporated and ending on the last day of the fiscal year in respect of which the expression is being applied, complied with the following conditions,

(i) all of its issued shares and all of its bonds, debentures and other funded indebtedness were,

(A) beneficially owned by non-resident persons, other than any foreign affiliate as defined in clause *b* of subsection 1 of section 95 of the *Income Tax Act* (Canada),

(B) owned by trustees for the benefit of non-resident persons or their unborn issue, or

(C) owned by a non-resident-owned investment corporation, all of the issued shares of which and all of the bonds, debentures and other funded indebtedness of which were beneficially owned by non-resident persons or owned by trustees for the benefit of non-resident persons or their unborn issue, or by two or more such corporations,

(ii) its income for each fiscal year ending in the period was derived from,

- (A) ownership of or trading or dealing in bonds, shares, debentures, mortgages, hypothecs, bills, notes, or other similar property or any interest therein,
 - (B) lending money with or without security,
 - (C) rents, hire of chattels, charterparty fees or remunerations, annuities, royalties, interest or dividends,
 - (D) estates or trusts, or
 - (E) disposition of capital property,
- (iii) not more than 10 per cent of its gross revenue for each fiscal year ending in the period was derived from rents, hire of chattels, charterparty fees or charterparty remunerations,
- (iv) its principal business in each fiscal year ending in the period was not,
- (A) the making of loans, or
 - (B) trading or dealing in bonds, shares, debentures, mortgages, hypothecs, bills, notes or other similar property or any interest therein,
- (v) it has, not later than 90 days after the commencement of its first fiscal year commencing after 1971 elected in prescribed manner to be taxed under this section, and
- (vi) it has not, before the end of the last fiscal year in the period, revoked in prescribed manner the election so made by it, and it has paid the taxes payable for such fiscal year under section 133 of the *Income Tax Act* (Canada), ^{1970-71, c. 63} (Can.)

except that in no case shall a new corporation, within the meaning assigned by section 81, formed as a result of an amalgamation after June 18, 1971 of two or more predecessor corporations be regarded as a non-resident-owned investment corporation unless each of the predecessor corporations was, immediately before the amalgamation, a non-resident-owned investment corporation; and

- (d) "taxable dividend" does not include a capital gains dividend. *New.*

Non-resident-owned corporation deemed not to be Canadian or private corporation

111. Notwithstanding any other provision of this Act, a non-resident-owned investment corporation that would, but for this section, be a Canadian corporation or private corporation shall be deemed not to be a Canadian corporation or private corporation, as the case may be, except for the purposes of subsection 1 of section 77 and section 81. *New.*

Patronage Dividends

Deduction in computing income

112.—(1) Notwithstanding anything in this Part, there may be deducted, in computing the income of a corporation for a fiscal year, the aggregate of the payments made, pursuant to allocations in proportion to patronage, by the corporation,

- (a) within the fiscal year or within 12 months thereafter to its customers of the fiscal year; and
- (b) within the fiscal year or within 12 months thereafter to its customers of a previous fiscal year, the deduction of which from income of a previous fiscal year was not permitted. R.S.O. 1970, c. 91, s. 49 (1).

Limitation where non-member customers

(2) Notwithstanding subsection 1, if the corporation has not made allocations in proportion to patronage in respect of all its customers of the fiscal year at the same rate, with appropriate differences for different types or classes of goods, products or services, or classes, grades or qualities thereof, the amount that may be deducted under this section is an amount equal to the lesser of,

- (a) the aggregate of the payments mentioned in subsection 1; and
- (b) the aggregate of,
 - (i) the part of the income of the corporation for the fiscal year attributable to business done with members, and
 - (ii) the allocations in proportion to patronage made to non-member customers of the fiscal year. R.S.O. 1970, c. 91, s. 49 (2).

Interpretation

(3) For the purposes of this section,

- (a) "allocation in proportion to patronage" for a fiscal year means an amount credited by a corporation to a

customer of that fiscal year on terms that the customer is entitled to or will receive payment thereof, computed at a rate in relation to the quantity, quality or value of the goods or products acquired, marketed, handled, dealt in or sold, or services rendered by the corporation from, on behalf of or to the customer, whether as principal or as agent of the customer or otherwise, with appropriate differences in the rate for different classes, grades or qualities thereof, if,

- (i) the amount was credited,
 - (A) within the fiscal year or within 12 months thereafter, and
 - (B) at the same rate in relation to quantity, quality or value aforesaid as the rate at which amounts were similarly credited to all other customers of that fiscal year who were members or to all other customers of that fiscal year, as the case may be, with appropriate differences aforesaid for different classes, grades or qualities, and
 - (ii) the prospect that amounts would be so credited was held forth by the corporation to its customers of that fiscal year who were members or non-member customers of that fiscal year, as the case may be;
- (b) “consumer goods or services” means goods or services the cost of which was not deductible by the person in computing the income from a business or property;
 - (c) “customer” means a customer of a corporation and includes a person who sells or delivers goods or products to the corporation, or for whom the corporation renders services;
 - (d) “income of the corporation attributable to business done with members” of any fiscal year means that proportion of the income of the corporation for the fiscal year, before making any deduction under this section, that the value of the goods or products acquired, marketed, handled, dealt in or sold or services rendered by the corporation from, on behalf of, or for members, is of the total value of goods or products acquired, marketed, handled, dealt in or sold or services rendered by the corporation from, on behalf of, or for all customers during the fiscal year;

- (e) "member" means a person who is entitled as a member or shareholder to full voting rights in the conduct of the affairs of the corporation or of another corporation of which the corporation is a subsidiary wholly-owned corporation;
- (f) "non-member customer" means a customer who is not a member; and
- (g) "payment" includes,
 - (i) the issue of a certificate of indebtedness or shares of the corporation or of another corporation of which the corporation is a subsidiary wholly-owned corporation if the corporation or that other corporation has in the fiscal year or within 12 months thereafter disbursed an amount of money equal to the aggregate face value of all certificates or shares so issued in the course of redeeming or purchasing certificates of indebtedness or shares of the corporation or that other corporation previously issued,
 - (ii) the application by the corporation of an amount to a member's liability to the corporation, including, without restricting the generality of the foregoing, an amount applied in fulfilment of an obligation of the member to make a loan to the corporation and an amount applied on account of payment for shares issued to a member, pursuant to a by-law of the corporation, pursuant to statutory authority or at the request of the member, or
 - (iii) the amount of a payment or transfer by the corporation that, under subsection 2 of section 58, is required to be included in computing the income of a member. R.S.O. 1970, c. 91, s. 49 (4).

Holding forth
prospect of
allocations

(4) For the purpose of this section a corporation shall be deemed to have held forth the prospect that amounts would be credited to a customer of a fiscal year by way of allocation in proportion to patronage, if,

- (a) throughout the fiscal year the statute under which the corporation was incorporated or registered, its charter, articles of association or by-laws or its contract with the customer held forth the prospect that amounts would be so credited to customers who are members or non-member customers, as the case may be; or

- (b) prior to the commencement of the fiscal year or prior to such other day as may be prescribed for the class of business in which the corporation is engaged, the corporation has published an advertisement in prescribed form in a newspaper or newspapers of general circulation throughout the greater part of the area in which the corporation carried on business holding forth that prospect to customers who are members or non-member customers, as the case may be, and has filed copies of the newspapers with the Minister before the end of the 30th day of the fiscal year or within 30 days from the prescribed day, as the case may be. R.S.O. 1970, c. 91, s. 49 (5).

(5) For greater certainty, the amount of any payment pursuant to an allocation in proportion to patronage is the amount thereof determined before deducting any amount required by subsection 3 of section 135 of the *Income Tax Act* (Canada) to be deducted or withheld from that payment. *New.*

Amount of payment to customer
1970-71, c. 63 (Can.)

(6) Where a payment pursuant to an allocation in proportion to patronage, other than an allocation in respect of consumer goods or services, has been received by a corporation, the amount of the payment shall be included in computing the recipient's income for the fiscal year in which the payment was received and, without restricting the generality of the foregoing, where a certificate of indebtedness or a share was issued to a corporation pursuant to an allocation in proportion to patronage, the amount of the payment by virtue of the issue thereof shall be included in computing the recipient's income for the fiscal year in which the certificate or share was received and not in computing its income for the fiscal year in which the indebtedness was subsequently discharged or the share was redeemed. R.S.O. 1970, c. 91, s. 49 (7).

Payment to customer to be included in income

Cooperative Corporations

113.—(1) Notwithstanding any other provision of this Act, a cooperative corporation that would, but for this section, be a private corporation shall be deemed not to be a private corporation. *New.*

Cooperative corporation deemed not to be private corporation

(2) In this section, "cooperative corporation" means a corporation that was incorporated by or under a law of Canada or a province providing for the establishment of the corporation or respecting the establishment of cooperative corporations for the purpose of marketing, including processing incident to or connected therewith, natural products belonging to or acquired from its members or customers, of purchasing

Meaning of expression "cooperative corporation"

supplies, equipment or household necessities for or to be sold to its members or customers or of performing services for its members or customers, if,

- (a) the statute by or under which it was incorporated, its charter, articles of association or by-laws or its contracts with its members or its members and customers held forth the prospect that payments would be made to them in proportion to patronage;
- (b) none of its members, except other cooperative corporations, have more than one vote in the conduct of the affairs of the corporation; and
- (c) at least 90 per cent of its members are individuals or other cooperative corporations and at least 90 per cent of its shares, if any, are held by such persons. R.S.O. 1970, c. 91, s. 48 (4).

Credit Unions

Deductions
in computing
income

114.—(1) In computing the income for a fiscal year of a credit union or a savings and credit union, in this Act referred to as a “credit union”, that is a corporation,

- (a) there may be deducted as a reserve in respect of bonds, debentures, agreements of sale, mortgages or hypothecs, in lieu of any deduction in respect thereof under clause *n* of subsection 1 of section 24, such amount as may be claimed by the credit union, not exceeding a prescribed amount;
- (b) there may be deducted as a reserve in respect of debts owing to the credit union, other than any debt described in clause *a*, in lieu of any deduction in respect thereof under clause *n* of subsection 1 of section 24, such amount as may be claimed by the credit union, not exceeding a prescribed amount;
- (c) there shall be included any amount deducted under clause *a* or *b* as a reserve in computing the credit union’s income for the immediately preceding fiscal year; and

(d) no deduction may be made under section 35. *New.*

Payments
pursuant to
allocations in
proportion to
borrowing

(2) Notwithstanding anything in this Part, there may be deducted, in computing the income for the fiscal year of a credit union that is a corporation, the aggregate of the pay-

ments made, pursuant to allocations in proportion to borrowing, by the credit union within the fiscal year or within 12 months thereafter to members of the credit union, to the extent that such payments were not deductible under this subsection in computing the income of the credit union for the immediately preceding fiscal year. *New.*

(3) For the purposes of this Act, any annual or other periodic amount paid or payable by a credit union to a member thereof in respect of his share in the credit union, other than any such amount paid or payable as or on account of capital, shall be deemed to have been paid or payable, as the case may be, by the credit union as interest and, when received by the member, to have been received by him as interest. *New.*

Amount paid in respect of member's share deemed paid as interest

(4) Where a payment has been received by a corporation from a credit union in a fiscal year in respect of an allocation in proportion to borrowing, the amount thereof shall, if the money so borrowed was used by the corporation for the purpose of earning income from a business or property, otherwise than to acquire property the income from which would be exempt or to acquire a life insurance policy, be included in computing the corporation's income for the fiscal year. *New.*

Member's income

(5) In this section,

Interpretation

(a) "allocation in proportion to borrowing" for a fiscal year means an amount credited by a credit union to a person who was a member of the credit union in the fiscal year on terms that the member is entitled to or will receive payment thereof, computed at a rate in relation to,

- (i) the amount of interest payable by the member on money borrowed from the credit union, or
- (ii) the amount of money borrowed by the member from the credit union,

if the amount was credited within the fiscal year or within 12 months thereafter and at the same rate in relation to the amount of interest or money, as the case may be, as the rate at which amounts were similarly credited in the fiscal year to all other members of the credit union,

(b) "credit union" means a corporation, association or federation incorporated or organized as a credit union or cooperative credit society if,

- (i) it derived its revenues primarily from,

- (A) loans made to, or cashing cheques for, members,
 - (B) bonds of, or guaranteed by, the Government of Canada or a province, or a Canadian municipality, or bonds of a municipal or public body performing a function of government in Canada,
 - (C) bonds of a corporation, commission or association not less than 90 per cent of the shares or capital of which was owned by the Government of Canada or a province or by a municipality in Canada, or
 - (D) loans made to a co-operative credit society of which it is a member, or
- (ii) the members thereof were corporations or associations,
- (A) incorporated or organized as credit unions, substantially all of which derived their revenues primarily from loans made to members or from bonds of or guaranteed by, the Government of Canada or of a province,
 - (B) incorporated, organized or registered under, or governed by a law of Canada or a province with respect to co-operatives, or
 - (C) incorporated or organized for charitable purposes,

or were corporations or associations no part of the income of which was payable to, or otherwise available for the personal benefit of, any shareholder or member thereof;

- (c) "member" of a credit union means a person who is entitled as a member or shareholder to full voting rights in the conduct of the affairs of the credit union. *New.*

Credit union
deemed not
to be private
corporation

- (6) Notwithstanding any other provision of this Act, a credit union that would, but for this section, be a private corporation shall be deemed not to be a private corporation. *New.*

Insurance Corporations

115.—(1) For the purpose of this section, an “insurance corporation” or “insurer” means any corporation with or without share capital, to which section 138 of the *Income Tax Act* (Canada) applies. R.S.O. 1970, c. 91, s. 41 (1), *amended*. Interpretation
1970-71, c. 63
(Can.)

(2) Notwithstanding any other provision of this Act and in order that insurance corporations or insurers may be dealt with under this Act as they will be dealt with under Part I of the *Income Tax Act* (Canada), it is hereby declared that for the purpose of section 8, the taxable incomes of such corporations for the purposes of this Act shall be the same as the taxable incomes of such corporations as determined for the purposes of Part I of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 41 (2). Calculation
of taxable
income

116. Where a life insurance corporation that is incorporated under the laws of a province has applied an amount in payment for shares of the corporation purchased by it under the authority of a law of the province that provides for the conversion of the corporation into a mutual corporation by the purchase of its shares in accordance with the provisions of such law, Conversion of
provincial
life
insurance
corporation
into mutual
corporation

(a) section 19 does not apply to require the inclusion, in computing the income of a shareholder of the corporation of any part of that amount; and

(b) no part of that amount shall be deemed, for the purposes of subsection 2 of section 115, to have been paid to shareholders or, for the purposes of section 78, to have been received as a dividend. R.S.O. 1970, c. 91, s. 42.

117. Notwithstanding any other provision of this Act, a life insurance corporation that is resident in Canada shall be deemed to be a public corporation. *New*. Life
insurance
corporation
deemed
to be public
corporation

DIVISION G—DEFERRED AND OTHER SPECIAL INCOME ARRANGEMENTS

Employees Profit Sharing Plans

118.—(1) In this Act, an “employees profit sharing plan” means an arrangement under which payments computed by reference to the profits from the business of a corporation and the profits if any from the business of a person with whom the corporation does not deal at arm’s length are made by the corporation to a trustee in trust for the benefit of officers or “Employees
profit sharing
plan” defined

employees of the corporation with whom the corporation does not deal at arm's length, whether or not payments are also made to the trustee by the officers or employees, and under which the trustee has, since the commencement of the plan or the end of 1949 whichever is the later, each year allocated either contingently or absolutely to individual officers or employees,

- (a) all amounts received by him from the corporation or from a person with whom the corporation does not deal at arm's length;
- (b) all profits from the trust property, computed without regard to any capital gain made by the trust or capital loss sustained by it at any time since the end of 1955;
- (c) all capital gains and capital losses of the trust for fiscal years ending after 1971; and
- (d) all amounts in respect of which employees who have, after 1971, ceased to be beneficiaries under the arrangement are deemed by subsection 9 of section 144 of the *Income Tax Act* (Canada) to have made a payment on account of tax under Part I of that Act,

1970-71, c. 63
(Can.)

in such manner that the aggregate of all such amounts, profits, gains and losses, minus such portion thereof as has been paid to beneficiaries under the trust, is allocated either contingently or absolutely to officers or employees who are beneficiaries thereunder. R.S.O. 1970, c. 91, s. 51 (1).

No tax while
trust
governed
by a plan

(2) No tax is payable under this Part on the taxable income of a trust for a fiscal year during which the trust was governed by an employees profit sharing plan. R.S.O. 1970, c. 91, s. 51 (2).

Employer's
contribution
to trust
deductible

(3) An amount paid by a corporation to a trustee under an employees profit sharing plan during a fiscal year or within 120 days thereafter may be deducted in computing the corporation's income for the fiscal year to the extent that it was not deductible in computing income for a previous fiscal year. R.S.O. 1970, c. 91, s. 51 (3).

Payments
out of
profits

(4) Where the terms of an arrangement under which a corporation makes payments to a trustee specifically provide that the payments shall be made "out of profit", such arrangement shall, if the corporation has so elected under subsection 10 of section 144 of the *Income Tax Act* (Canada), be deemed

for the purpose of subsection 1, to be an arrangement for payments "computed by reference to the profits from the business of the corporation". R.S.O. 1970, c. 91, s. 51 (4).

(5) Where an employees profit sharing plan is accepted^{Fiscal year of trust} for registration by the Minister as a deferred profit sharing plan, the fiscal year of the trust governed by the employees profit sharing plan shall be deemed to have ended immediately before the plan is deemed to have become registered as a deferred profit sharing plan pursuant to subsection 5 of section 147 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 51 (5).^{1970-71, c. 63 (Can.)}

REGISTERED SUPPLEMENTARY UNEMPLOYMENT BENEFIT PLANS

119.—(1) In this Act,

Interpre-
tation

(a) "registered supplementary unemployment benefit plan" means a supplementary unemployment benefit plan accepted by the Minister for registration for the purposes of this Act in respect of its constitution and operations for the fiscal year under consideration; and

(b) "supplementary unemployment benefit plan" means an arrangement, other than an arrangement in the nature of superannuation or pension fund or plan or an employees profit sharing plan, under which payments are made by a corporation to a trustee in trust exclusively for the payment of periodic amounts to employees or former employees of the corporation who are or may be laid off for any temporary or indefinite period. R.S.O. 1970, c. 91, s. 52 (1).

(2) The Minister shall be deemed to have accepted for^{Plan deemed accepted} registration as a supplementary unemployment benefit plan under this Act every supplementary unemployment benefit plan that is accepted for registration by the Minister of National Revenue for Canada as a supplementary unemployment benefit plan under section 145 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 52 (2).

(3) No tax is payable under this Part by a trust upon the taxable income of the trust for a period during which the trust was governed by a registered supplementary unemployment benefit plan. R.S.O. 1970, c. 91, s. 52 (3).^{No tax while trust governed by plan}

(4) There shall be included in computing the income for a fiscal year of a corporation that, as an employer, has made^{Amounts received on amendment or winding-up of plan}

any payment to a trustee under a supplementary unemployment benefit plan, any amount received by the corporation in the fiscal year as a result of an amendment to or modification of the plan or as a result of the termination or winding-up of the plan. R.S.O. 1970, c. 91, s. 52 (5).

Payments
by employer
deductible

(5) An amount paid by a corporation to a trustee under a registered supplementary unemployment benefit plan during a fiscal year or within 30 days thereafter may be deducted in computing the corporation's income for the fiscal year to the extent that it was not deductible in computing income for a previous fiscal year. R.S.O. 1970, c. 91, s. 52 (4).

Deferred Profit Sharing Plans

Interpre-
tation

120.—(1) In this Act,

"Deferred
profit sharing
plan" defined

(a) "deferred profit sharing plan" means a profit sharing plan accepted by the Minister for registration for the purposes of this Act; and

"Profit
sharing
plan"

(b) "profit sharing plan" means an arrangement under which payments computed by reference to the profits of a corporation from its business or by reference to the profits of a corporation from its business and the profits, if any, from the business of a person with whom the corporation does not deal at arm's length are or have been made by the corporation to a trustee in trust for the benefit of employees of that corporation or employees of any other person, whether or not payments are or have been also made to the trustee by the employees. R.S.O. 1970, c. 91, s. 53 (1).

Acceptance
of plan for
registration

(2) The Minister shall be deemed to have accepted for registration as a deferred profit sharing plan under this Act every profit sharing plan that is deemed to be registered by the Minister of National Revenue for Canada as a deferred profit sharing plan under section 147 of the *Income Tax Act* (Canada), and such plan shall be deemed to have been registered by the Minister on the same date as it is deemed to be registered as a deferred profit sharing plan under subsection 5 of section 147 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 53 (2).

1970-71, c. 63
(Can.)

Deferred
plan not
employees
profit
sharing plan

(3) For a fiscal year during which a plan is a deferred profit sharing plan, the plan shall be deemed, for the purposes of this Act, not to be an employees profit sharing plan. R.S.O. 1970, c. 91, s. 53 (4).

(4) No tax is payable under this Part on the taxable income of the trust for a fiscal year during which the trust was governed by a deferred profit sharing plan. R.S.O. 1970, c. 91, s. 53 (5). No tax while trust governed by plan

(5) There may be deducted in computing the income of a corporation for a fiscal year the aggregate of each amount paid by the corporation in the fiscal year or within 120 days after the end of the fiscal year, to a trustee under a deferred profit sharing plan for the benefit of employees of the corporation who are beneficiaries under the plan, not exceeding, however, in respect of each individual employee in respect of whom the amounts so paid by the corporation were paid by it, an amount equal to the least of, Amount of employer's contribution deductible

- (a) the aggregate of each amount so paid by the corporation in respect of that employee;
- (b) \$2,500 minus the amount, if any, deductible under clause s of subsection 1 of section 24 in respect of that employee in computing the income of the corporation for the fiscal year; and
- (c) 20 per cent of the salary or wages paid in the fiscal year to the employee by the corporation,

to the extent that such amount was not deductible in computing the income of the employer for a previous fiscal year. R.S.O. 1970, c. 91, s. 53 (6).

(6) Notwithstanding subsection 5, the amount that a corporation is entitled to deduct under subsection 5 in computing its income for a fiscal year shall be neither more nor less than the amount that it deducts and is allowed as a deduction in computing its income for the same fiscal year under subsections 8 and 9 of section 147 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 53 (7). Limitation on deduction
1970-71, c. 63 (Can.)

(7) Where funds or property of a trust governed by a deferred profit sharing plan have been appropriated in any manner whatsoever to or for the benefit of a corporation that is, Appropriation of trust property by employer

- (a) an employer by whom payments are made in trust to a trustee under the plan; or
- (b) a corporation with whom that employer does not deal at arm's length,

otherwise than in payment of or on account of shares of the capital stock of either that employer or the corporation, as

the case may be, purchased by the trust, the amount or value of the funds or property so appropriated shall be included in computing the income of the employer or the corporation, as the case may be, for the fiscal year in which the funds or property were so appropriated, unless such funds or property or an amount in lieu thereof equal to the amount or value of such funds or property were repaid to the trust within one year from the end of the fiscal year, and it is established by subsequent events or otherwise that the repayment was not made as part of a series of appropriations and repayments. R.S.O. 1970, c. 91, s. 53 (8).

Revocation of
registration

1970-71, c. 63
(Can.)

(8) The Minister shall be deemed to have revoked the registration of a profit sharing plan as a deferred profit sharing plan as and when the Minister of National Revenue for Canada revokes it under subsection 14 of section 147 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 53 (3).

Rules
applicable
to revoked
plan

(9) Where the Minister is deemed to have revoked the registration of a profit sharing plan as a deferred profit sharing plan under subsection 8, the plan, hereinafter referred to as the "revoked plan", shall be deemed, for the purposes of this Act, not to be a deferred profit sharing plan, and, notwithstanding any other provision of this Act, the following rules shall apply,

- (a) subsection 4 does not apply to exempt the trust governed by the plan from tax under section 8 upon the taxable income of the trust for a fiscal year in which, at any time therein, the trust was governed by the revoked plan;
- (b) no deduction shall be made by a corporation in computing its income for a fiscal year in respect of an amount paid by it under the plan at a time when it was a revoked plan;
- (c) there shall be included in computing the income of a corporation for a fiscal year the amount or value of any funds or property appropriated to or for the benefit of the corporation in the fiscal year that, by virtue of subsection 7, would have been so included if the revoked plan had been a deferred profit sharing plan at the time of the appropriation of the funds or property;
- (d) the revoked plan shall be deemed, for the purposes of this Act, not to be an employees profit sharing plan. R.S.O. 1970, c. 91, s. 53 (9).

(10) Where the terms of an arrangement under which a corporation makes payments to a trustee specifically provide that the payments shall be made "out of profits", such arrangement shall be deemed, for the purpose of clause *b* of subsection 1 to be an arrangement for payments "computed by reference to the profits of a corporation from its business". R.S.O. 1970, c. 91, s. 53 (10).

Life Insurance Policies

121. Where a corporation to which the provisions of section 148 of the *Income Tax Act* (Canada) apply, it is hereby declared that the amount to be included in its income for the purposes of this section shall be the same as is required to be included for the purposes of section 148 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 54.

DIVISION H—EXEMPTIONS

122.—(1) No tax is payable under this Part upon the taxable income of a corporation for a period when that corporation was,

- (a) a municipality in Canada, or a municipal or public body performing a function of government in Canada; R.S.O. 1970, c. 91, s. 5 (42) (a).
- (b) a corporation, commission or association not less than 90 per cent of the shares or capital of which was owned by Her Majesty in right of Canada or a province or by a Canadian municipality, or a wholly-owned corporation subsidiary to such a corporation, commission or association but this clause does not apply,
 - (i) to such corporation, commission or association if a person other than Her Majesty in right of Canada or a province or a Canadian municipality had, during the period, a right under a contract, in equity or otherwise either immediately or in the future and either absolutely or contingently, to, or to acquire, shares or capital of that corporation, commission or association, and
 - (ii) to such wholly-owned subsidiary corporation if a person other than Her Majesty in right of Canada or a province or a Canadian municipality had, during the period, a right under a contract, in equity or otherwise, either immedi-

ately or in the future and either absolutely or contingently, to, or to acquire, shares or capital of that wholly-owned subsidiary corporation or of the corporation, commission or association of which it is a wholly-owned subsidiary corporation; R.S.O. 1970, c. 91, s. 5 (42) (b).

Certain
organizations

- (c) an agricultural organization, a board of trade or a chamber of commerce, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof; R.S.O. 1970, c. 91, s. 5 (42) (c).

Charitable
organizations

- (d) a charitable organization, whether or not incorporated, all the resources of which were devoted to charitable activities carried on by the organization itself and no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof; R.S.O. 1970, c. 91, s. 5 (42) (d).

Non-profit
corporation

- (e) a corporation that was constituted exclusively for charitable purposes, no part of whose income was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof, that has not, since June 1, 1950, acquired control of any other corporation and that, during the period,

(i) did not carry on any business,

(ii) had no debts incurred since June 1, 1950, other than obligations arising in respect of salaries, rents and other current operating expenses, and

(iii) except in the case of a corporation that was, before 1940, constituted exclusively for charitable purposes, expended amounts each of which is,

(A) an expenditure in respect of charitable activities carried on by the corporation itself,

(B) a gift to an organization in Canada the income of which for the period is exempt from tax under this Part by virtue of clause d,

(C) a gift to a corporation resident in Canada the income of which for the period is exempt from tax under this Part by virtue of this clause, or

(D) a gift to Her Majesty in right of Canada or a province or to a Canadian municipality,

and the aggregate of which is not less than 90 per cent of the corporation's income for the period; R.S.O. 1970, c. 91, s. 5 (42) (e).

(f) a corporation that was constituted exclusively for the purpose of providing low-cost housing accommodation for the aged, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof; R.S.O. 1970, c. 91, s. 5 (42) (g). Certain housing corporations

(g) a corporation that was constituted exclusively for the purpose of carrying on or promoting scientific research, no part of whose income was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof, that has not acquired control of any other corporation and that, during the period, Non-profit corporation for scientific research

(i) did not carry on any business, and

(ii) expended amounts in Canada each of which is,

(A) an expenditure on scientific research directly undertaken by or on behalf of the corporation, or

(B) a payment to an association, university, college or research institution, described in subclause ii or iii of clause *a* of subsection 1 of section 39 to be used for scientific research,

and the aggregate of which is not less than 90 per cent of the corporation's income for the period; R.S.O. 1970, c. 91, s. 5 (42) (f).

(h) a labour organization or society or a benevolent or fraternal benefit society or order; R.S.O. 1970, c. 91, s. 5, (42) (h).

- Non-profit organizations (i) a club, society or association organized and operated exclusively for social welfare, civic improvement, pleasure or recreation or for any other purpose except profit, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof; R.S.O. 1970, c. 91, s. 5 (42) (i).
- Mutual insurance corporations (j) a mutual insurance corporation that received its premiums wholly from the insurance of churches, schools or other charitable organizations; R.S.O. 1970, c. 91, s. 5 (42) (j).
- Housing corporation (k) a limited dividend housing corporation within the meaning of that expression as defined by the *National Housing Act* (Canada); R.S.O. 1970, c. 91, s. 5 (42) (l).
- R.S.C. 1970, c. N-10
- Pension trust or corporation (l) a trust or corporation established or incorporated solely in connection with, or for the administration of, a registered pension fund or plan; R.S.O. 1970, c. 91, s. 5 (42) (p).
- Farmers' and fishermen's insurers (m) an insurer, who was engaged during the period in no business other than insurance, if, in the opinion of the Minister on the advice of the Superintendent of Insurance, 50 per cent of its gross premium income for the period was in respect of the insurance of farm property, property used in fishing or residences of farmers or fishermen. R.S.O. 1970, c. 91, s. 5 (42) (s).
- Income not to include taxable capital gains (2) For the purposes of clauses c to g inclusive of subsection 1 and clause i of subsection 1, in computing the part, if any, of any income that was payable to or otherwise available for the personal benefit of any corporation or the aggregate of any amounts that is not less than a percentage specified in any of those clauses of any income for a period, the amount of such income shall be deemed to be the amount thereof otherwise determined less the amount of any taxable capital gains included therein. *New.*
- subs. 1 not applicable (3) Subsection 1 does not apply in respect of the taxable income of a benevolent or fraternal benefit society or order from carrying on a life insurance business. R.S.O. 1970, c. 91, s. 5 (43).
- Idem (4) For the purposes of subsection 3, the taxable income of a benevolent or fraternal benefit society or order from carrying on a life insurance business shall be computed on the

assumption that it had no income or loss from any other sources. R.S.O. 1970, c. 91 s. 5 (44).

(5) Where it is necessary for the purpose of this section to ascertain the taxable income of a corporation for a period that is a part of a fiscal year, the taxable income for the period shall be deemed to be the proportion of the taxable income for the fiscal year that the number of days in the period is of the number of days in the fiscal year. R.S.O. 1970, c. 91, s. 5 (45).

Apportionment rule

(6) For the purpose of clause *g* of subsection 1,

When deemed not to have acquired control of another corporation

(a) a corporation is controlled by another corporation if more than 50 per cent of its issued share capital, having full voting rights under all circumstances, belongs to,

(i) the other corporation, or

(ii) the other corporation and persons with whom the other corporation does not deal at arm's length,

but the corporation shall be deemed not to have acquired control of another corporation if it has not purchased, or otherwise acquired for a consideration, any of the shares in the capital stock of that other corporation;

(b) there shall be included in computing a corporation's income all gifts received by the corporation other than,

Gifts

(i) a gift received subject to a trust or direction that the property given, or property substituted therefor, is to be held permanently by the corporation for the purpose of gaining or producing income therefrom, or

(ii) a gift or a portion of a gift in respect of which it is established that the donor has not been allowed a deduction under clause *a* of subsection 1 of section 98 or a gift made by a person who was not taxable under this section for the fiscal year in which the gift was made. R.S.O. 1970, c. 91, s. 5 (46).

(7) For the purpose of clause *g* of subsection 1,

Idem

(a) a corporation is controlled by another corporation if more than 50 per cent of its issued share capital,

having full voting rights under all circumstances, belongs to,

(i) the other corporation, or

(ii) the other corporation and persons with whom the other corporation does not deal at arm's length,

but a corporation shall be deemed not to have acquired control of a corporation if it has not purchased, or otherwise acquired for a consideration, any of the shares in the capital stock of that corporation; and

(b) there shall be included in computing a corporation's income all gifts received by the corporation and all amounts contributed to the corporation to be used for scientific research. R.S.O. 1970, c. 91, s. 5 (47).

Rules

(8) In computing the income of a corporation for the purpose of determining whether it is described by clause *e* or *g* of subsection 1 for a fiscal year,

(a) there may be deducted an amount not exceeding its income for the fiscal year preceding the fiscal year computed without including or deducting any amount under this subsection; and

(b) there shall be included any amount that has been deducted under this subsection for the immediately preceding fiscal year. R.S.O. 1970, c. 91, s. 5 (48).

Election by
charitable
trust or
corporation

(9) For the purpose of determining whether a corporation has complied with the requirements of subclause iii of clause *e* of subsection 1 or subclause ii of clause *g* of subsection 1 for its first fiscal year after its incorporation, the whole or any part of amounts expended by it in the immediately subsequent fiscal year shall, if it so elects, be deemed to have been expended by it in the first fiscal year and not in the subsequent fiscal year. R.S.O. 1970, c. 91, s. 5 (49).

PART III

DIVISION A—LIABILITY FOR CAPITAL TAX

Liability
for capital
tax

123. Except as otherwise provided in this Part, every corporation that is liable to the taxes imposed under this Act, except any corporation to which clause *c* of subsections 2 or 3 of section 2 applies, shall pay a capital tax as hereinafter required,

- (a) in the case of a corporation to which subsection 1 of section 2 applies, upon its taxable paid-up capital determined in accordance with Division B of this Part; and
 - (b) in the case of a corporation to which clause *a* or *b* of subsection 2 or 3 of section 2 applies, upon its taxable paid-up capital employed in Canada determined in accordance with Division C of this Part.
- New.*

124. Except as provided in section 125, the taxable paid-up ^{Taxable paid-up capital} capital of a corporation shall be measured as at the close of the fiscal year for which the tax imposed by section 123 is levied and is its taxable paid-up capital determined under Division B of this Part. R.S.O. 1970, c. 91, s. 69.

125. Notwithstanding section 124, the taxable paid-up ^{Idem} capital of a corporation that is liable to the taxes imposed under this Act by virtue of clause *a* or *b* of subsection 2 or 3 of section 2, referred to in this Part as "taxable paid-up capital employed in Canada", shall be measured as at the close of the fiscal year for which the tax imposed by section 123 is levied and is its taxable paid-up capital employed in Canada determined under Division C of this Part. R.S.O. 1970, c. 91, s. 6 (17).

DIVISION B—COMPUTATION OF TAXABLE PAID-UP CAPITAL

126. The paid-up capital of a corporation for a fiscal year ^{World paid-up capital} is its paid-up capital as it stood at the close of the fiscal year and includes,

- (a) the paid-up capital stock of the corporation;
- (b) its earned capital and any other surplus;
- (c) all its reserves, whether created from income or otherwise, except any reserve the creation of which is allowed as a charge against income under the provisions of Part II, except clause *p* of subsection 1 of section 24 thereof;
- (d) all sums or credits advanced or loaned to the corporation by its shareholders directly or indirectly or by any other corporation, excluding such sums or credits of a non-capital nature advanced or loaned to the corporation by a bank; and
- (e) all its indebtedness, whether assumed or undertaken by it, represented by bonds, bond mortgages, de-

ventures, income bonds, income debentures, mortgages, lien notes and any other securities to which the property of the corporation or any of it is subject. R.S.O. 1970, c. 91, s. 70, *amended*.

Deductions
from paid-up
capital

127.—(1) For the purpose of computing the taxable paid-up capital of a corporation for a fiscal year, there may be deducted from its paid-up capital as at the close of the fiscal year such of the following amounts as are applicable,

Goodwill

- (a) the amount of the goodwill or other intangible thing included as an asset to the extent that such goodwill or other intangible thing in the opinion of the Minister has no value, but this deduction applies to no more than 50 per cent of the book value of such goodwill or other intangible thing;

Discount on
shares

- (b) the amount of the discount allowed on the sale of the shares of a corporation to which Part IV of *The Corporations Act* applies;

R.S.O. 1970,
c. 89

Investments

- (c) the amount that equals that proportion of the paid-up capital remaining after the deduction of the amounts provided by clauses *a* and *b* which the cost of the investments made by the corporation in the shares and bonds of other corporations, in loans and advances to other corporations and in the bonds, debentures and other securities of any government, municipal or school corporation bears to the total assets of the corporation remaining after the deductions of the amounts provided by clauses *a* and *b*, but cash on deposit with any corporation doing the business of a savings bank and amounts due by a corporation with its head office outside Canada to a subsidiary controlled corporation or a subsidiary wholly-owned corporation taxable under this Part shall be deemed not to be loans and advances to other corporations;

Capital
held in
mining

- (d) in the case of a corporation engaged in mining, the amount that equals that proportion of the paid-up capital remaining after the deduction of the amounts provided by clauses *a*, *b* and *c* which the total of,

(i) the amount held or used in the survey for exploration and development of minerals,

(ii) the amount invested in the mine as defined by *The Mining Tax Act*,

R.S.O. 1970,
c. 275

- (iii) the amount invested in the plant and works necessary to and forming part of such mine, and
- (iv) the amount invested in the plant and works necessary for the refinement of the ore taken from the mine,

bears to the total assets remaining after the deduction of the amounts provided by clauses *a*, *b* and *c*. R.S.O. 1970, c. 91, s. 71 (1).

(2) For the purpose of this Part, "any other surplus", ^{Interpretation} "total assets" and "cost of investments" includes any amount,

- (a) by which any asset of a corporation is carried in its books of account or on its balance sheet in excess of the cost thereof;
- (b) by which the value of an asset of a corporation has been written down and deducted from its income or undivided profits where such amount is not deductible under Part II;
- (c) the original cost of any asset to which subclause ii, iii or iv of clause *d* of subsection 1 applies,

and excludes any amount,

- (d) by which the value of an asset of a corporation has been written down and deducted from its income or undivided profits where such amount is deductible under the provisions of Part II except clause *p* of subsection 1 of section 24 thereof. R.S.O. 1970, c. 91, s. 71 (2).

(3) In computing taxable paid-up capital or taxable paid-up ^{Artificial} capital employed in Canada, as the case may be, no reduction may be made with respect to any transaction that, if permitted, would unduly or artificially reduce the taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be. *New.*

DIVISION C—COMPUTATION OF TAXABLE PAID-UP CAPITAL EMPLOYED IN CANADA OF NON-RESIDENT

128. Notwithstanding section 126, the paid-up capital ^{Paid-up} employed in Canada of a corporation that is liable to the ^{capital} taxes imposed under this Act by virtue of clause *a* or *b* of ^{in Canada} subsection 2 or 3 of section 2, shall be deemed to be either, ^{of non-resident}

- (a) the amount of which its taxable income earned in Canada determined for the purposes of this Act would be 8 per cent ; or
- (b) the amount by which,
 - (i) the amount of the total assets of the corporation in Canada exceeds,
 - (ii) the amount of the indebtedness of the corporation relating to its permanent establishments in Canada but excluding therefrom all amounts that are advanced or loaned to its permanent establishments in Canada by the corporation itself or by any other corporation or its shareholders directly or indirectly excluding such amounts of a non-capital nature advanced or loaned to the corporation by a bank, and all other indebtedness that is represented by bonds, bond mortgages, debentures, income bonds, income debentures, mortgages, lien notes and any other securities to which the property in Canada or any of it is subject,

whichever is greater and in such case, this section shall apply as though,

- (c) the corporation had no permanent establishment outside Canada ;
- (d) the paid-up capital employed in Canada as so determined were the total paid-up capital of the corporation ; and
- (e) the taxable paid-up capital employed in Canada were allocated among the provinces and territories of Canada as prescribed by the regulations. R.S.O. 1970, c. 91, s. 6 (17), *amended*.

Taxable
paid-up
capital
employed
in Canada

129. The taxable paid-up capital employed in Canada of a corporation to which this Division applies is its paid-up capital employed in Canada determined under section 128 minus the aggregate of such of the deductions permitted under section 127 as may reasonably be considered wholly applicable on the assumption that the only assets of the corporation were assets pertaining exclusively to its permanent establishments in Canada. R.S.O. 1970, c. 91, s. 6 (17), *amended*.

Idem

130. In computing the paid-up capital employed in Canada of a corporation for the purpose of this Part there shall not be included the amount of the paid-up capital invested in a ship

or aircraft operated by such corporation in Canada if such corporation is entitled, in computing its income for a fiscal year, to exclude the income for a fiscal year earned in Canada from the operation of such ship or aircraft under clause *c* of subsection 1 of section 75. R.S.O. 1970, c. 91, s. 71 (3).

DIVISION D—COMPUTATION
OF CAPITAL TAX PAYABLE

131. The tax payable by a corporation under this Part upon its taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, in this section referred to as the "amount taxable", is one-tenth of 1 per cent of the amount taxable. R.S.O. 1970, c. 91, s. 6 (1). Rate of
general
capital tax

132. There may be deducted from the tax otherwise payable under this Part by a corporation for a fiscal year an amount equal to one-tenth of 1 per cent of that portion of the taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, which is deemed to be used by the corporation in the fiscal year in each jurisdiction outside Ontario determined under rules prescribed by the regulations. R.S.O. 1970, c. 91, s. 6 (4). Deduction
from tax
on paid-up
capital

133. Notwithstanding section 132, and except as provided in subsection 1 of section 135, the tax payable under this Part shall in no case be less than \$50. R.S.O. 1970, c. 91, s. 6 (2). Minimum
tax

134. The tax imposed by this Part is not payable by any corporation that is liable to a tax under section 138, 139, 140, 141, 142 or 143 or by any corporation that is liable to the taxes imposed under this Act by virtue only of clause *c* of subsection 2 or 3 of section 2. R.S.O. 1970, c. 91, s. 6 (3). Exemptions

135.—(1) Except as provided in subsection 1 of section 30 every corporation referred to in clauses *b*, *c*, *d*, *e*, *f*, *g*, *h*, *i*, *k*, *l* and *m* of subsection 1 of section 122 shall, in lieu of the taxes payable under sections 131 and 133 pay a tax of \$5. R.S.O. 1970, c. 91, s. 6 (18). Idem

(2) Every corporation referred to in clause *j* of subsection 1 of section 122 shall, in lieu of the tax payable under subsection 1, pay a tax of \$50. R.S.O. 1970, c. 91, s. 6 (19). Idem

136. Where a corporation has a fiscal year of less than 365 days, the tax otherwise payable by it under this Part shall be in the proportion thereof that the number of days of such fiscal year bears to 365, except that this section does not apply, Apportion-
ment of
capital tax

- (a) to any corporation to which section 133 or 135 applies; or
- (b) to any corporation the fiscal year of which does not end on the same date each year, but that has been accepted for purposes of assessment under this Act. R.S.O. 1970, c. 91, s. 7.

Idem

137. Where the exemption under section 122 applies to a part of a fiscal year only, the provisions of subsections 1 and 2 of section 135 do not apply, and in any such case the tax otherwise payable under this Part shall be in the proportion thereof that the number of days of the fiscal year for which the exemption under subsection 1 of section 122 does not apply, bears to 365, except that the tax payable under this Part as reduced by this section shall in no case be less than \$50. *New.*

PART IV

LIABILITY FOR SPECIAL TAXES

Banks,
taxes on
paid-up
capital

138.—(1) Every bank shall for every fiscal year thereof pay,

- (a) a tax of one-fifth of 1 per cent of the paid-up capital stock thereof and one-tenth of 1 per cent on the reserve fund and undivided profits thereof;
- (b) an additional tax of \$3,000 for the principal office in Ontario and \$200 for each additional office, branch or agency in Ontario, but in the case of such additional offices, branches and agencies that were open during the fiscal year fewer than 250 days, one tax of \$200 shall apply for each 250 days or fraction thereof that such offices, branches and agencies were open. R.S.O. 1970, c. 91, s. 8 (1).

Reduction
in certain
cases

(2) Where the head office of a bank is outside Ontario and where it has not more than five offices, branches and agencies in Ontario, the Minister, having regard to the amount of business transacted in Ontario, may reduce the amount of tax imposed by clause *a* of subsection 1, but such tax shall in no case be less than one-tenth of 1 per cent calculated on one-half of the paid-up capital stock. R.S.O. 1970, c. 91, s. 8 (2).

Railways,
mileage tax

139.—(1) Every corporation that operates or uses a railway shall for every fiscal year thereof pay a tax of \$60 per mile for one track, and, where the line consists of two or more tracks, of \$40 per mile for each additional track, operated or used in any municipality in Ontario, and of \$40 per mile

for one track, and, where the line consists of two or more tracks, of \$20 per mile for each additional track, in territory without municipal organization in Ontario, but a corporation that operates or uses a railway that, either by itself or in conjunction with any other railway leased by it or to which it is leased or with which it is amalgamated or together with which it forms one system, does not exceed 150 miles in length from terminal to terminal, whether or not one or both of such terminals are outside Ontario, shall, in lieu of such tax, pay a tax of \$15 per mile for one track in Ontario, and where the line consists of two or more tracks, of \$5 per mile for each additional track in Ontario, and, where the railway or system does not exceed thirty miles in length between such terminals, a tax of \$10 per mile for one track in Ontario and, where the line consists of two or more tracks, of \$5 per mile for each additional track in Ontario. R.S.O. 1970, c. 91, s. 9 (1).

(2) In addition to the tax imposed by subsection 1, every ^{Additional tax} corporation that operates or uses a railway that, either by itself or in conjunction with any other railway leased by it or to which it is leased or with which it is amalgamated or together with which it forms one system, exceeds 150 miles in length from terminal to terminal, whether or not one or both of such terminals are outside Ontario, shall for every fiscal year of the corporation pay a tax of \$25 per mile for one track in Ontario, and, where the line consists of two or more tracks, of \$20 per mile for each additional track in Ontario. R.S.O. 1970, c. 91, s. 9 (2).

(3) Switches, spurs and sidings shall not be included in the ^{Switches, etc., not to be included} measurement of track for the purposes of this section. R.S.O. 1970, c. 91, s. 9 (3).

140. Every corporation that owns, operates or uses a line ^{Telegraph companies, special tax} or a part of a line of telegraph in Ontario for gain, including every corporation that owns, operates or uses a railway, shall for every fiscal year of the corporation pay a tax of 1 per cent upon the total amount of money invested by the corporation in such line or part thereof and the plant and works connected therewith; provided that a corporation that owns and a corporation that operates and uses any such line or part thereof are liable jointly and severally for the payment of such tax, but the total amount payable in respect of such line or part thereof and the works and plant connected therewith shall not exceed the total amount of tax imposed under this section, notwithstanding that the line or part thereof is owned, operated or used by more than one corporation. R.S.O. 1970, c. 91, s. 10.

Express
companies,
special tax

141. Every corporation that carries on the business of an express company over a railway in Ontario, including a corporation that owns, operates or uses a railway, shall for every fiscal year of the corporation pay a tax of \$800 for each 100 miles or fraction thereof up to but not exceeding a tax of \$10,000. R.S.O. 1970, c. 91, s. 11.

Car
companies,
special tax

142. Every corporation, except a corporation that owns, operates or uses a railway, that transacts in Ontario the business of operating, leasing or hiring sleeping or parlour or dining cars run upon or used upon any railway in Ontario, shall, for every fiscal year of the corporation, pay a tax of 1 per cent calculated upon the money invested in such cars in use in Ontario. R.S.O. 1970, c. 91, s. 12.

Insurance
companies

143.—(1) Every insurance corporation shall pay a tax of 2 per cent calculated on the gross premiums that become payable to the corporation or its agent or agents during the fiscal year in respect of business transacted in Ontario, other than premiums in respect of re-insurance ceded to the corporation by other insurance corporations and considerations for annuities, after deducting from such premiums,

(a) cash value of dividends credited to policy-holders;

(b) premiums returned. R.S.O. 1970, c. 91, s. 13 (1).

Idem

R.S.O. 1970,
c. 224

(2) In addition to the tax payable under subsection 1, every corporation transacting business as an insurer for property insurance within the meaning of *The Insurance Act* and the regulations made thereunder shall pay a tax of one-half of 1 per cent calculated on the gross premiums that become payable to the corporation or its agent or agents during the fiscal year in respect of such business transacted in Ontario other than premiums in respect of re-insurance ceded to the corporation by other insurers after deducting from such premiums,

(a) cash value of dividends credited to policy-holders; and

(b) premiums returned. *New.*

Premiums
in respect of
business
transacted
in Ontario

(3) In determining the amount of tax payable under subsection 1 and 2,

(a) every life insurance premium that becomes payable at the time the person insured is a resident of Ontario; and

(b) every other premium that by the terms of the policy or renewal thereof becomes payable in respect

of insurance of a person resident or property situate in Ontario at the time such premium becomes payable whether or not,

- (i) such premium is earned wholly or partly in Ontario,
- (ii) the business in respect of the policy is transacted wholly or partly in Ontario, or
- (iii) the payment of such premium is made wholly or partly in Ontario,

shall be deemed to be a premium payable in respect of business transacted in Ontario. R.S.O. 1970, c. 91, s. 13 (2).

(4) The tax imposed by subsection 1 or 2 is not payable ^{Exemptions} in respect of premiums payable under a contract of marine insurance or by,

- (a) mutual insurance corporations insuring agricultural and other non-hazardous risks on the premium note plan, the sole business of which is carried on in Ontario;
- (b) fraternal societies and mutual benefit societies as defined in *The Insurance Act*; or R.S.O. 1970,
c. 224
- (c) pension fund and employees' mutual benefit societies incorporated under or subject to *The Corporations Act*. R.S.O. 1970,
c. 89 R.S.O. 1970, c. 91, s. 13 (3).

(5) In this section, "marine insurance" means insurance ^{Marine insurance} against marine losses, that is to say, the losses incident to marine adventure, and may by the express terms of a contract or by usage of trade extend so as to protect the insured against losses on inland waters or by land or air which are incidental to any sea voyage. R.S.O. 1970, c. 91, s. 13 (4).

(6) Where it is established to the satisfaction of the Lieutenant Governor in Council that any jurisdiction discriminates unfairly by imposing taxes, fees and other monetary obligations on any insurance corporation or any particular class of insurance corporations organized under the laws of Canada or of Ontario and having their principal offices in Ontario that in the aggregate are in excess of comparable taxes, fees and monetary obligations imposed on any similar corporation or class of corporations organized under the laws of such jurisdiction, the Lieutenant Governor in Council may direct that any corporation or any class of corporations ^{Unfair discrimination}

organized under the laws of such jurisdiction and that transacts business in Ontario shall pay, in addition to the tax otherwise imposed by this section, a tax not exceeding the equivalent of such excess, and such additional tax is recoverable in the same manner as any other tax imposed by this Act. R.S.O. 1970, c. 91, s. 13 (5).

Fiscal year (7) For the purposes of this Act, the fiscal year of every insurance corporation shall be deemed to end on the 31st day of December. R.S.O. 1970, c. 91, s. 13 (6).

Idem **144.** Where a corporation has a fiscal year of less than 365 days the tax otherwise payable by it under this Part shall be in the proportion thereof that the number of days of such fiscal year bears to 365, except that this section does not apply to any corporation to which the provisions of section 143 applies. *New.*

PART V

RETURNS, PAYMENTS, ASSESSMENTS AND APPEALS

DIVISION A—RETURNS

Annual return **145.**—(1) Every corporation on which a tax is imposed by this Act shall, on or before the last day of the month that ends six months following the close of its fiscal year, without notice or demand, and every corporation on which a tax is or is not imposed by this Act shall, upon receipt of a notice or demand in writing from the Minister or from any officer of the Department of Revenue authorized by the Minister to make such demand, deliver to the Minister such return as is required for the purpose of carrying out the provisions of this Act. R.S.O. 1970, c. 91, s. 73 (1).

Verification of returns (2) The return shall contain an estimate of the respective taxes payable and shall be verified by a certificate certifying that the financial statements included in the return or attached thereto are in agreement with the books of the corporation, and such certificate shall be signed by the president or some other officer having personal knowledge of the affairs of the corporation and, in the case of an extra-provincial corporation, by the manager or chief agent of the corporation in Ontario or by such other person or persons connected with the corporation as the Minister requires. R.S.O. 1970, c. 91, s. 73 (2).

Penalty for default **146.**—(1) Every corporation that fails to deliver a return as and when required by subsection 1 of section 145 shall pay a penalty of an amount equal to the greater of,

(a) \$50;

- (b) 5 per cent of the tax that was unpaid when the return was required to be delivered, if the tax payable by the corporation for the fiscal year that was unpaid at that time was less than \$10,000; and
- (c) \$500, if at the time the return was required to be delivered tax payable by the corporation equal to \$10,000 or more was unpaid. R.S.O. 1970, c. 91, s. 74 (1).

(2) Every corporation that fails to complete the information required on the return to be delivered under subsection 1 of section 145 is liable to a penalty of 1 per cent of the taxes payable by it under this Act, but such penalty shall not in any case be less than \$20 or more than \$100. R.S.O. 1970, c. 91, s. 74 (2).

(3) Every person who has,

False
statements

- (a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer delivered or made as required by or under this Act or the regulations;
- (b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of a corporation;
- (c) made, or assented to or acquiesced in the making of, false or deceptive entries, or omitted, or assented to or acquiesced in the omission, to enter a material particular, in records or books of account of a corporation;
- (d) wilfully in any manner evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act; or
- (e) conspired with any person to commit an offence described by clauses *a* to *d*,

is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on summary conviction to a fine of not less than \$25 and not more than \$10,000 plus, in an appropriate case, an amount of not more than double the amount of the tax that should have been shown to be payable or that was sought to be evaded, or to imprisonment for a term of not more than two years, or to both. R.S.O. 1970, c. 91, s. 74 (3).

Statements
or omissions
in return

(4) Where a person, acting or purporting to act on behalf of a corporation, knowingly or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act has made, or has participated in, assented to or acquiesced in the making of, a statement or omission in a return, certificate, statement or answer filed or made as required by or under this Act or the regulations, as a result of which the tax that would have been payable by the corporation for a fiscal year, if the tax had been assessed on the basis of the information provided in the return, certificate, statement or answer, is less than the tax payable by the corporation for the fiscal year, the corporation is liable to a penalty of 25 per cent of the amount by which the tax that would so have been payable is less than the tax payable by the corporation for the fiscal year. R.S.O. 1970, c. 91, s. 74 (4).

Extended
time for
making
returns

147. The Minister may enlarge the time for making any return before or after the time for making it. R.S.O. 1970, c. 91, s. 75.

DIVISION B—PAYMENTS

Taxes,
when to
accrue

148.—(1) The taxes imposed by this Act shall be deemed to accrue proportionately as the days of each fiscal year for which such taxes are imposed pass. R.S.O. 1970, c. 91, s. 76 (1).

Dates of
payment

(2) Every corporation on which a tax is imposed by this Act shall pay to the Treasurer of Ontario,

(a) on or before the fifteenth day of each of the fifth, eighth and eleventh months of the fiscal year in respect of which the tax is payable and on or before the fifteenth day of the second month of the fiscal year following that in respect of which the tax is payable, an instalment equal to one-quarter of the tax payable as estimated by it at the rates for the fiscal year on,

(i) its estimated taxable income and other subject of tax for the fiscal year, or

(ii) its taxable income and other subject of tax for the immediately preceding fiscal year; and

(b) on or before the last day on which a return is required to be delivered under subsection 1 of section 145, the balance, if any, of the tax payable as estimated by it on the return for the fiscal year. R.S.O. 1970, c. 91, s. 76 (2).

(3) Notwithstanding subsection 2, every corporation on which a tax is imposed by this Act, the fiscal year of which commenced after the 15th day of March, 1969, shall pay to the Treasurer of Ontario, ^{Dates of payment}

- (a) on or before the fifteenth day of each of the third, fifth, seventh, ninth and eleventh months of the fiscal year in respect of which the tax is payable and on or before the fifteenth day of the first month of the fiscal year following that in respect of which the tax is payable, an instalment equal to one-sixth of the tax payable as estimated by it at the rates for the taxation year on,
 - (i) its estimated taxable income and other subject of tax for the fiscal year, or
 - (ii) its taxable income and other subject of tax for the immediately preceding fiscal year; and
 - (b) on or before the last day on which a return is required to be delivered under subsection 1 of section 145, the balance, if any, of the tax payable as estimated by it on the return for the fiscal year.
- R.S.O. 1970, c. 91, s. 76 (3).

(4) Notwithstanding subsections 2 and 3 and subject to subsection 5 of section 149, where for the purposes of this section any corporation estimates the amount of tax payable for a fiscal year to be less than \$300, the corporation may, instead of paying the instalments required by subsection 2 or 3, pay such tax on or before the fifteenth day of the first month of the fiscal year following that in respect of which the tax is payable. ^{Special cases} R.S.O. 1970, c. 91, s. 76 (4).

(5) Notwithstanding subsection 2, every corporation, except those corporations to which the provisions of section 138, 139, 140, 141 or 142 apply, the fiscal year of which commenced prior to the 15th day of March, 1969, and ends on or after the 15th day of March, 1969, shall, in addition to any instalment of tax otherwise payable on or before the fifteenth day of the second month following the close of such fiscal year, pay the balance or whole of the capital tax remaining unpaid as imposed by this Act based on a rate of one-tenth of 1 per cent of the taxable paid-up capital as it stood at the close of such fiscal year. ^{Balance of tax, when payable} R.S.O. 1970, c. 91, s. 76 (5).

(6) Notwithstanding subsection 2, every corporation to which the provisions of section 138, 139, 140, 141 or 142 apply, the fiscal year of which commenced prior to the 15th day of ^{Idem}

March, 1969, and ends on or after the 15th day of March, 1969, shall, in addition to any instalment of tax otherwise payable on or before the fifteenth day of the second month following the close of such fiscal year, pay the balance or whole of the taxes payable under those sections remaining unpaid, determined on the amount of mileage or other subject referred to in the said sections in respect of which the amount of tax is to be ascertained as such mileage or other subject of tax stood at the close of such fiscal year]. R.S.O. 1970, c. 91, s. 76 (6).

Interest
on unpaid
tax

149.—(1) Where the amount paid on account of tax payable by a corporation for a fiscal year before the expiration of the time allowed for delivering of the return of the corporation under section 145 is less than the amount of tax payable for the fiscal year, the corporation liable to pay the tax shall pay interest on the difference between those two amounts from the expiration of the time for delivering the return to the date of payment at such rate as is prescribed by the regulations. R.S.O. 1970, c. 91, s. 77 (1).

Idem

(2) Where a corporation is required by subsection 2, 3, 4, 5 or 6 of section 148 to pay all or a part or instalment of tax and it has failed to pay all or any part thereof as required, the corporation, in addition to the interest payable under subsection 1, shall pay interest, at such rate as is prescribed by the regulations, on the amount it failed to pay from the day on or before which it was required to make the payment to the day of payment or the beginning of the period in respect of which it becomes liable to pay interest thereon under subsection 1, whichever is earlier. R.S.O. 1970, c. 91, s. 77 (2).

Idem

(3) Where the Minister has reassessed the tax payable for a fiscal year under subsection 4 of section 150 and the tax payable is greater than the tax previously assessed for that fiscal year, the interest payable under subsection 2 and the penalty under subsection 1 of section 146 shall be assessed in accordance with the provisions of subsection 1 of section 150 provided,

- (a) that the provisions of this subsection shall not apply where subsection 3 or 4 of section 146 apply; and
- (b) the provisions of this subsection shall apply only with respect to instalments of tax due and payable before the thirtieth day following the date of such reassessment. *New.*

Effect of
carry-back
of loss

(4) Where a corporation is entitled to deduct under subsection 1 of section 99 in computing its taxable income for a

taxation year an amount in respect of a loss sustained in the fiscal year immediately following the taxation year, hereinafter in this subsection referred to as "the loss year", for the purpose of computing interest and penalty interest under this section on tax or a part or instalment of tax for the taxation year for any portion of the period in respect of which the interest is payable on or before the last day of the loss year, the tax payable for the taxation year shall be deemed to be the amount that it would have been if the corporation were not entitled to deduct an amount under subsection 1 of section 99 in respect of that loss. R.S.O. 1970, c. 91, s. 77 (3).

(5) For the purposes of calculating interest under subsection 2, where a corporation is required to pay a part or instalment of tax for a fiscal year as estimated by it on its taxable income and other subject of tax for a preceding fiscal year or on its estimated taxable income and other subject of tax for the fiscal year, it shall be deemed to have been liable to pay a part or instalment computed by reference to the taxable income and other subject of tax for, ^{Interest on unpaid tax}

(a) the preceding fiscal year; or

(b) the fiscal year,

whichever is the lesser. R.S.O. 1970, c. 91, s. 77 (4).

DIVISION C—ASSESSMENTS

150.—(1) The Minister shall with all due despatch examine each return delivered under section 145 and assess the tax for the fiscal year and the interest and penalties if any payable. ^{Assessment of returns}
R.S.O. 1970, c. 91, s. 78 (1).

(2) After examination of a return, the Minister shall send, ^{Notice of assessment} by mail or by registered mail or deliver by personal service a notice of assessment to the corporation that delivered the return. R.S.O. 1970, c. 91, s. 78 (2).

(3) Liability for tax imposed by this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made. ^{Continuation of liability for tax}
R.S.O. 1970, c. 91, s. 78 (3).

(4) The Minister may at any time assess tax, interest or penalties, or notify in writing any person by whom a return of income or other subject of tax for a fiscal year has been filed that no tax is payable for the fiscal year, and may, ^{Reassessment}

(a) at any time, if the corporation or person filing the return,

- (i) has made any misrepresentation or committed any fraud in filing the return or supplying any information under this Act, or
 - (ii) has failed to file financial statements with the return required to be filed under section 145, or
 - (iii) has been negligent in supplying any information under this Act, or
 - (iv) has filed with the Minister a waiver in a prescribed form within six years from the day of mailing of a notice of an original assessment or of a notification that no tax is payable for a fiscal year, or
 - (v) has claimed a deduction under clause *u* of subsection 1 of section 24; and
- (b) within six years from the day referred to in sub-clause iv of clause *a*, in any other case,

reassess or make additional assessments or assess tax, interest or penalties, as the circumstances require. R.S.O. 1970, c. 91, s. 78 (4).

Idem

(5) Where a corporation has delivered the return required by section 145 for a fiscal year and, within one year from the day on or before it was required by section 145 to deliver a return for that fiscal year, has filed an amended return for the fiscal year claiming a deduction from income under subsection 1 of section 99 in respect of a business loss sustained in the fiscal year immediately following that fiscal year, the Minister shall reassess the tax payable by the corporation for that fiscal year. R.S.O. 1970, c. 91, s. 78 (5).

Minister
not bound
by returns

(6) The Minister is not bound by a return or information delivered by or on behalf of a corporation and may, notwithstanding a return or information so delivered or if no return or information has been delivered, assess the tax payable under this Act. R.S.O. 1970, c. 91, s. 78 (6).

Assessment
valid and
binding

(7) An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto. R.S.O. 1970, c. 91, s. 78 (7).

Payment of
assessment

151.—(1) Every corporation shall within thirty days from the day of mailing of the notice of assessment pay any part of

the assessed tax, interest and penalties then remaining unpaid, whether or not an objection to or appeal from the assessment is outstanding. R.S.O. 1970, c. 91, s. 79 (1).

(2) Where in the opinion of the Minister a corporation is ^{Idem} attempting to avoid payment of a tax imposed by this Act or where the Minister has assessed the tax payable under this Act pursuant to subsection 6 of section 150, he may, notwithstanding subsection 2 of section 150, serve the notice of assessment upon the corporation or the president, manager, secretary or any director, agent or representative thereof and direct that all taxes, penalties and interest as set out therein shall be paid forthwith. R.S.O. 1970, c. 91, s. 79 (2).

DIVISION D—REFUNDS OF OVERPAYMENTS

152.—(1) If the return required to be delivered by a cor- ^{Refunds}poration under section 145 for a fiscal year has been delivered within four years from the end of that fiscal year, the Minister,

(a) may, upon mailing the notice of assessment for the fiscal year, refund without application therefor any overpayment made on account of the tax payable for the fiscal year; and

(b) shall make such a refund after mailing the notice of assessment if application therefor has been made in writing by the corporation within four years from the day on which the overpayment was made or the day on which the notice of assessment was mailed. R.S.O. 1970, c. 91, s. 80 (1).

(2) Instead of making a refund that might otherwise be ^{Application to other taxes} made under this section, the Minister may, where the corporation is liable or about to become liable to make another payment under this Act, apply the amount of the overpayment to that other liability and notify the corporation of such action. R.S.O. 1970, c. 91, s. 80 (2).

(3) Where an amount in respect of an overpayment is ^{Interest on over-payments} refunded or applied under this section on other liability, interest at such rate as is prescribed by the regulations shall be paid or applied thereon for the period commencing with the latest of,

(a) the day on which the overpayment arose;

(b) the day on or before which the return of the corporation in respect of which the overpayment arose was required by section 145 to be delivered; or

- (c) the day on which the return of the corporation in respect of which the overpayment arose was delivered,

and ending with the day of refunding or application aforesaid, unless the amount of the interest so calculated is less than \$1, in which event no interest shall be paid or applied under this subsection. R.S.O. 1970, c. 91, s. 80 (3).

Idem

(4) Where by a decision of the Minister under section 154 or by a decision of a court it is finally determined that the tax payable under this Act by a corporation for a fiscal year is less than the amount assessed by the assessment under section 150 to which objection was made or from which the appeal was taken and the decision makes it appear that there has been an overpayment for the fiscal year, the interest payable under subsection 3 on that overpayment shall be computed at such rate as is prescribed by the regulations. R.S.O. 1970, c. 91, s. 80 (4).

Idem

(5) Where an amount has been paid with respect to the provisions of section 167 and the tax payable under this Act for the fiscal year as finally determined is less than the payment, the interest payable on that overpayment shall, notwithstanding subsection 3, be computed at such rate as is prescribed for the purpose of subsection 4 as though the day on which the overpayment arose is the day upon which the payment was made. *New.*

Interpre-
tation

(6) For the purpose of this section, "overpayment" means the aggregate of all amounts paid on account of tax payable for a fiscal year minus all amounts payable under this Act or an amount so paid where no amount is so payable. R.S.O. 1970, c. 91, s. 80 (5).

Effect of
carry-back
of loss

(7) Where a corporation is entitled to deduct under subsection 1 of section 99 in computing its taxable income for a taxation year an amount in respect of a loss sustained in the fiscal year immediately following the taxation year, hereinafter in this subsection referred to as "the loss year", and the amount of the tax payable for the taxation year is relevant in determining an overpayment for the purpose of computing interest under subsection 3 for any portion of a period ending on or before the last day of the loss year, the tax payable for the taxation year shall be deemed to be the amount that it would have been if the corporation were not entitled to deduct an amount under subsection 1 of section 99 in respect of that loss. R.S.O. 1970, c. 91, s. 80 (6).

Credit
interest on
overpaid
instalments

153.—(1) Where instalments of tax as required by subsection 3 of section 148 are overpaid at any time prior

to the day the return of the corporation in respect of which the overpaid instalments occurred was required by section 145 to be delivered or the day on which a refund was made upon assessment where such assessment is made before the day the return was due to be filed, whichever is earlier, interest at such rate as is prescribed for the purpose of subsection 3 of section 152 shall be allowed on the overpayment to the extent that interest has been otherwise assessed under subsection 2 of section 149 except that under no circumstances shall the credit interest so allowed exceed the interest otherwise assessed under that section.

(2) Subsection 1 does not apply with respect to any amount ^{Application} to which subsection 5 of section 152 applies. *New.*

DIVISION E—OBJECTIONS TO ASSESSMENT

154.—(1) A corporation that objects to an assessment ^{Notice of objection} under this Act may within ninety days from the day of mailing of the notice of assessment serve on the Minister a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts. R.S.O. 1970, c. 91, s. 81 (1).

(2) A notice of objection under this section shall be served ^{Service} by being sent by registered mail addressed to the Minister. R.S.O. 1970, c. 91, s. 81 (2).

(3) The Minister may accept a notice of objection under this ^{Idem} section notwithstanding that it was not served in duplicate or in the manner required by subsection 2. R.S.O. 1970, c. 91, s. 81 (3).

(4) Upon receipt of the notice of objection, the Minister ^{Reconsideration} shall with all due despatch reconsider the assessment and vacate, confirm or vary the assessment or reassess and he shall thereupon notify the corporation of his action by registered letter. R.S.O. 1970, c. 91, s. 81 (4).

DIVISION F—APPEALS

155.—(1) Where a corporation has served notice of objection ^{Appeal} to an assessment under section 154, the corporation may appeal to the Supreme Court to have the assessment vacated or varied after the Minister has confirmed or reassessed, but no appeal under this section may be instituted after the expiration of ninety days from the day notice has been mailed to the corporation under section 154 that the Minister has confirmed the assessment or reassessed. R.S.O. 1970, c. 91, s. 82 (1).

Appeals,
how
instituted

(2) An appeal to the Supreme Court shall be instituted by serving on the Minister a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the corporation appealing has its head office or other permanent establishment. R.S.O. 1970, c. 91, s. 82 (2).

Notice of
appeal

(3) A notice of appeal shall be served upon the Minister by being sent by registered mail addressed to the Minister. R.S.O. 1970, c. 91, s. 82 (3).

Statement
of allegations

(4) The corporation appealing shall set out in the notice of appeal a statement of the allegations of fact, the statutory provisions and reasons that it intends to submit in supporting its appeal. R.S.O. 1970, c. 91, s. 82 (4).

Security
for costs

(5) An appeal by a corporation and all proceedings thereunder are, upon the expiration of sixty days from the day the appeal is instituted, null and void unless security for the costs of the appeal has been, within the said period, paid into court in the sum of \$400 or such other sum as the Minister requires and, upon an appeal becoming null and void by virtue of this subsection, no other appeal or proceedings shall be instituted in respect of the same decision. R.S.O. 1970, c. 91, s. 82 (5).

Idem

(6) When security has been given under subsection 5, notice thereof shall be served on the Minister specifying the fact and the purpose of the payment. R.S.O. 1970, c. 91, s. 82 (6).

Reply to
notice of
appeal

156.—(1) The Minister shall with all due despatch serve on the corporation appealing and file in the court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as the Minister intends to rely on. R.S.O. 1970, c. 91, s. 83 (1).

Amendment
of notice of
appeal

(2) The court or a judge may in its or his discretion strike out a notice of appeal or any part thereof for failure to comply with subsection 4 of section 155 and may permit an amendment to be made to a notice of appeal or a new notice of appeal to be substituted for the one struck out. R.S.O. 1970, c. 91, s. 83 (2).

Amendment
to reply

(3) The court or a judge may in its or his discretion,

(a) strike out any part of a reply for failure to comply with subsection 1 or permit the amendment of a reply; or

- (b) strike out a reply for failure to comply with this section and order a new reply to be filed within a time to be fixed by the order. R.S.O. 1970, c. 91, s. 83 (3).

(4) Where a notice of appeal is struck out for failure to comply with subsection 4 of section 155 and a new notice of appeal is not filed as and when permitted by the court or a judge, the court or a judge thereof may, in its or his discretion, dispose of the appeal by dismissing it. R.S.O. 1970, c. 91, s. 83 (4). ^{Failure to comply}

(5) Where a reply is not filed as required by this section or is struck out under this section and a new reply is not filed as ordered by the court or a judge within the time ordered, the court may dispose of the appeal *ex parte* or after a hearing on the basis that the allegations of fact contained in the notice of appeal are true. R.S.O. 1970, c. 91, s. 83 (5). ^{Idem}

157.—(1) Upon the filing of the material referred to in sections 155 and 156 with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the corporation appealing has its head office or permanent establishment, the matter shall be deemed to be an action in the court and, unless the court otherwise orders, ready for hearing. R.S.O. 1970, c. 91, s. 84 (1). ^{Matter deemed action}

(2) Any fact or statutory provision not set out in the notice of appeal or reply may be pleaded or referred to in such manner and upon such terms as the court directs. R.S.O. 1970, c. 91, s. 84 (2). ^{Facts not set out may be pleaded}

(3) The court may dispose of the appeal by, ^{Disposal of appeal}

(a) dismissing it;

(b) allowing it; or

(c) allowing it, and,

(i) vacating the assessment,

(ii) varying the assessment,

(iii) restoring the assessment, or

(iv) referring the assessment back to the Minister for reconsideration and reassessment. R.S.O. 1970, c. 91, s. 84 (3).

(4) The court may in delivering judgment disposing of an appeal order payment or refund of tax, interest, penalties or ^{Court may order payment of tax, etc.}

costs by the taxpayer or the Minister, as the case may be. R.S.O. 1970, c. 91, s. 84 (4).

Proceedings
in camera

158. Proceedings under this Division shall be held *in camera* upon request made to the court by the corporation appealing or by the Minister. R.S.O. 1970, c. 91, s. 85.

Supreme
Court
practice
to govern

159. The practice and procedure of the Supreme Court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter deemed to be an action under section 157 and every judgment and order given or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court. R.S.O. 1970, c. 91, s. 86.

Irregularities

160. An assessment shall not be vacated or varied on appeal by reason only of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision of this Act. R.S.O. 1970, c. 91, s. 87.

PART VI

ADMINISTRATION AND ENFORCEMENT

Investiga-
tions

161.—(1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or anything is done in connection with any business or any books or records are or should be kept pursuant to this Act, and,

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or the amount of tax payable under this Act;
- (b) examine property described by an inventory or any property, process or matter an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax payable under this Act;
- (c) require the president, manager, secretary or any director, agent or representative of the corporation liable to pay or considered possibly liable to pay tax

under this Act and any other person on the premises of such corporation to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration and, for that purpose, require such person to attend at the premises or place with him; and

- (d) if during the course of an audit or examination it appears to him that there has been a violation of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings. R.S.O. 1970, c. 91, s. 88 (1).

(2) The Minister may, for any purpose relating to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any corporation or from the president, manager, secretary, or any director, agent or representative thereof,

- (a) any information or additional information or a return as required by section 145 or a supplementary return; or
- (b) production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated therein. R.S.O. 1970, c. 91, s. 88 (2).

(3) The Minister may, for any purpose related to the administration or enforcement of this Act, by registered letter or by a demand served personally, require from any person, partnership, syndicate, trust or corporation holding or paying or liable to pay any portion of the income of the corporation, or from any partner, agent or official of any such person, partnership, syndicate, trust or corporation, production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents, within such reasonable time as is stipulated therein. R.S.O. 1970, c. 91, s. 88 (3).

(4) The Minister may, for any purpose related to the administration or enforcement of this Act, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon *ex parte* application, authorize

in writing any officer of the Ministry of Revenue, together with such members of the provincial police or other peace officers as he calls on to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place for documents, books, records, papers or things that may afford evidence as to the violation of any provision of this Act or the regulations and to seize and take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings. R.S.O. 1970, c. 91, s. 88 (4).

Idem

(5) The Minister may, by registered letter or by a demand served personally, require the production, under oath or otherwise, by any person, partnership, syndicate, trust or corporation, or by his or its agent or officer, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation or of his or its agent or officer, for the purpose of determining what tax, if any, is payable under this Act by any corporation and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand. R.S.O. 1970, c. 91, s. 88 (5).

Idem

(6) The Minister may, for any purpose related to the administration or enforcement of this Act, authorize any person, whether or not he is an officer of the Ministry of Revenue, to make such inquiry as he deems necessary with reference to anything relating to the administration or enforcement of this Act. R.S.O. 1970, c. 91, s. 88 (6).

Copies

(7) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced or any officer of the Ministry of Revenue may make, or cause to be made, one or more copies thereof and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way. R.S.O. 1970, c. 91, s. 88 (7).

Compliance

(8) No person shall hinder or molest or interfere with any person doing anything that he is authorized by this section to do or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by this section to do. R.S.O. 1970, c. 91, s. 88 (8).

Administra-
tion of
oaths

(9) Declarations or affidavits in connection with returns delivered under this Act or statements of information sub-

mitted pursuant to this section may be taken before any person having authority to administer an oath, or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee therefor. R.S.O. 1970, c. 91, s. 88 (9).

(10) For the purpose of an inquiry authorized under sub-section 6, the person authorized to make the inquiry has all the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to the inquiry as if it were an inquiry under that Act. R.S.O. 1970, c. 91, s. 88 (10). ^{Powers of inquiry 1971, c.49}

162.—(1) Every corporation that is required by this Act to pay taxes shall keep records and books of account, including an annual inventory kept in the same manner as is required for purposes of the *Income Tax Act* (Canada) and the regulations made thereunder at its permanent establishment in Ontario or at such other place as is designated by the Minister, in such form and containing such information as will enable the taxes payable under this Act to be determined. R.S.O. 1970 c. 91, s. 89 (1). ^{Books and records 1970-71, c.63 (Can.)}

(2) Where a corporation has failed to keep adequate records and books of account for the purpose of this Act, the Minister may require the corporation to keep such records and books of account as he specifies and the corporation shall thereafter keep records and books of account as so required. R.S.O. 1970, c. 91, s. 89 (2). ^{Idem}

(3) Every corporation required by this section to keep records and books of account shall, until written permission for their disposal is obtained from the Minister, retain every such record or book of account and every account or voucher necessary to verify the information in any such records or books of account. R.S.O. 1970, c. 91, s. 89 (3). ^{Idem}

163.—(1) Every corporation that has failed to deliver a return as and when required by this Act or the regulations is guilty of an offence and, in addition to any penalty otherwise provided, on summary conviction is liable to a fine of not less than \$25 for each day of default. R.S.O. 1970, c. 91, s. 90 (1). ^{Offences}

(2) Every person who has failed to comply with or contravened section 161 or 162 is guilty of an offence and, in addition to any penalty otherwise provided, on summary conviction is liable to a fine of \$25 for each day during which the default continues. R.S.O. 1970, c. 91, s. 90 (2). ^{Idem}

164. Where a corporation is guilty of an offence under this Act, any officer, director or agent of the corporation who ^{Officers, etc., of corporations}

directed, authorized, assented to, acquiesced in, or participated in, the commission of the offence is a party to and guilty of the offence and on summary conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted. R.S.O. 1970, c. 91, s. 91.

Time for
laying
information

165. An information in respect of an offence against this Act shall be laid within six years of the time when the matter of the information arose. R.S.O. 1970, c. 91, s. 92.

Communica-
tion of
information

166.—(1) No person employed in the service of Her Majesty shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act or allow any such person to inspect or have access to any written statement furnished under this Act. R.S.O. 1970, c. 91, s. 93 (1).

Offence
and
penalty

(2) Every person who contravenes any provision of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1970, c. 91, s. 93 (2).

Exception:

(3) Notwithstanding subsection 1, the Minister may, for the purpose of aiding in an investigation for taxation purposes under this or any other Act, enter into an agreement with the government of Canada or of any province under which officers of such government will be allowed access to information obtained or any written statement furnished under this Act and officers of the Government of Ontario will be allowed access to information obtained or any written statement furnished under any Act of such government. R.S.O. 1970, c. 91, s. 93 (3).

Collection

Priority
of tax

R.S.C. 1970,
c. B-4

167.—(1) All taxes, interest, penalties, costs and other amounts imposed under this Act are debts due to Her Majesty and, subject to the *Bankruptcy Act* (Canada), are a first lien and charge upon the property in Ontario of the corporation liable to pay such taxes, interest, penalties, costs and other amounts. R.S.O. 1970, c. 91, s. 94 (1).

Tax and
penalty
to be
lien on
property

(2) All taxes, interest, penalties, costs and other amounts imposed under this Act by a corporation that owns, operates or uses a railway are a special lien on any property, real or personal, in which the corporation has any interest, legal or equitable (other than as lessee or under any agreement for running rights or operating rights) in priority to every claim, privilege, lien or encumbrance, whenever created, of every person, and the lien and its priority are not lost or impaired by

any neglect, omission or error of any minister, officer, servant or agent of the Crown, or by want of registration. R.S.O. 1970, c. 91, s. 94 (2).

168.—(1) When the Minister has knowledge or suspects that ^{Garnishment} a person is or is about to become indebted or liable to make any payment to a corporation liable to make a payment under this Act, he may, by registered letter or by a letter served personally, require him to pay the moneys otherwise payable to that corporation in whole or in part to the Treasurer of Ontario on account of the liability under this Act. R.S.O. 1970, c. 91, s. 95 (1).

(2) The receipt of the Treasurer of Ontario for moneys paid ^{Idem} as required under this section is a good and sufficient discharge of the original liability to the extent of the payment. R.S.O. 1970, c. 91, s. 95 (2).

(3) Every person who has discharged any liability to a ^{Liability of debtor} corporation liable to make a payment under this Act without complying with a requirement under this section is liable to pay to Her Majesty in right of Ontario an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer of Ontario, whichever is the lesser. R.S.O. 1970, c. 91, s. 95 (3).

(4) Where a person who is or is about to become indebted ^{Service of garnishee} or liable to make a payment to a corporation liable to make a payment under this Act carries on business under a name or style other than his own name, the registered or other letter under subsection 1 may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee. R.S.O. 1970, c. 91, s. 95 (4).

(5) Where the persons who are or are about to become ^{Idem} indebted or liable to make a payment to a corporation liable to make a payment under this Act carry on business in partnership, the registered or other letter under subsection 1 may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership. R.S.O. 1970, c. 91, s. 95 (5).

169.—(1) Upon default of payment by a corporation of any ^{Recovery of tax, interest and penalties} tax, interest or penalty or any of them imposed upon a corporation by this Act,

- (a) the Minister may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Minister or his name of office and may be continued by his successor in office as if no change had occurred, and shall be tried without a jury;
- (b) the Minister may issue a warrant, directed to the sheriff of any county or district in which any property of the corporation is located or situate, for the amount of the tax, interest and penalty or any of them owing by the corporation, together with interest thereon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court. R.S.O. 1970, c. 91, s. 96 (1).

Compliance
of Minister
to be proved
by affidavit

(2) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the Minister with this Part as well as the failure of any person, partnership, syndicate, trust or corporation to comply with the requirements of this Part shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proven in any court of law by affidavit of the Minister or of any officer of the Ministry of Revenue. R.S.O. 1970, c. 91, s. 96 (2).

Remedies
for recovery
of tax and
penalty

170. The use of any of the remedies provided by sections 168 and 169 does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery or enforcement of the payment of any tax, interest and penalty or any of them imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or otherwise. R.S.O. 1970, c. 91, s. 97.

Notice to be
given
Minister of
sale of
company's
capital assets

171.—(1) Where a corporation has failed to pay taxes, interest and penalties or any of them imposed by this Act for a period of more than three years from the date of mailing of the notice of assessment provided by subsection 2 of section 150, no person shall sell any capital assets of the corporation unless he has given written notice by registered letter to the Minister not less than ten days before the date of the sale. R.S.O. 1970, c. 91, s. 98 (1).

Penalty

(2) Every person who contravenes the provisions of subsection 1 is liable to a penalty of not less than an amount

equal to the amount of such taxes, interest and penalties in default and such penalty is recoverable by action in any court in which a debt or money demand of a similar amount may be collected. R.S.O. 1970, c. 91, s. 98 (2).

172. If any doubt or dispute arises as to the liability of a corporation to pay a tax or any portion of a tax demanded under the authority of this Act, or if owing to special circumstances it is deemed inequitable to demand payment of the whole amount imposed by this Act, the Minister may accept such amount as he deems proper. R.S.O. 1970, c. 91, s. 99.

Com-
promising
disputes as to
liability
for taxes

173. Every person who, and every corporation that, contravenes or fails to comply with any of the provisions of this Act or the regulations for which no other fine is provided is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500. R.S.O. 1970, c. 91, s. 100.

General
penalty

174. The fines imposed for offences under this Act are payable to the Treasurer of Ontario. R.S.O. 1970, c. 91, s. 101.

Fines
payable to
Treasurer

175.—(1) The Lieutenant Governor in Council may make regulations,

Regulations

- (a) authorizing or requiring the Deputy Minister of Revenue or any officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;
- (b) providing for the issuance of certificates as to the amount of taxes, interest and penalties or any of them owing by any corporation under this Act and prescribing the fee payable therefor;
- (c) prescribing anything that by this Act is to be prescribed or is to be determined or regulated by the regulations;
- (d) prescribing amendments to the provisions of Part II that relate to the computation of income and taxable income, such amendments to remain effective only if enacted by the Legislature at the first regular session after such amendments have been prescribed;
- (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act;

(f) prescribing rates of interest for the purposes of Part V. R.S.O. 1970, c. 91, s. 102 (1).

Idem (2) A regulation is, if it so provides, effective with reference to a period before it was filed. R.S.O. 1970, c. 91, s. 102 (2).

PART VII

TRANSITIONAL PROVISIONS

Application rules **176.**—(1) For the purposes of this Act, the *Income Tax Application Rules, 1971* (Canada) shall where applicable be deemed to apply *mutatis mutandis* to fiscal years ended in 1972 and subsequent fiscal years.

Idem (2) In this Act where reference is made to *The Corporations Tax Application Rules, 1972*, such reference shall mean the provisions made applicable by subsection 1.

Effect of R.S.O. 1970, c. 91 (3) In this Act where reference is made to *The Corporations Tax Act* such reference shall mean the provisions of *The Corporations Tax Act*, R.S.O. 1970, c. 91, as amended.

PART VIII

MISCELLANEOUS

Application of R.S.O. 1970, c. 91 as amended and this Act **177.**—(1) *The Corporations Tax Act*, being chapter 91 of the Revised Statutes of Ontario, 1970, applies to corporations in respect of all fiscal years ending before or during the year 1971 and this Act applies thereafter, provided that the provisions of this Act relating to the collection of taxes apply to the collection of taxes under *The Corporations Tax Act*.

R.S.O. 1970, cc. 91 as amended, repealed (2) Subject to subsection 1, *The Corporations Tax Act*, *The Corporations Tax Amendment Act, 1971*, *The Corporations Tax Amendment Act, 1971* (No. 2) and *The Corporations Tax Amendment Act, 1971* (No. 3) are repealed.

Commencement **178.** This Act comes into force on the day it receives Royal Assent.

Short title **179.** This Act may be cited as *The Corporations Tax Act, 1972*.

The Corporations Tax Act, 1972

1st Reading

June 29th, 1972

2nd Reading

3rd Reading

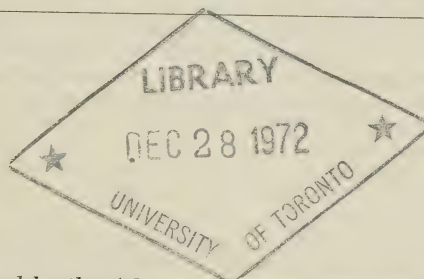
THE HON. A. GROSSMAN
Minister of Revenue

(Government Bill)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

The Corporations Tax Act, 1972

THE HON. A. GROSSMAN
Minister of Revenue



(Reprinted as amended by the Administration of Justice Committee)

TORONTO

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EXPLANATORY NOTES

GENERAL: This Bill replaces the provisions of *The Corporations Tax Act*, R.S.O. 1970. The Act will continue to impose a tax on a corporation at a rate of 12 per cent of its total taxable income and will permit a deduction from tax of a specified portion thereof if the corporation has a permanent establishment outside Ontario. In addition, where a corporation non-resident in Canada disposes of taxable Canadian property, the taxable capital gain arising therefrom will form part of its taxable income.

Taxable income which includes for the first time taxable capital gains is calculated, with the exception of the provisions relating to mining and gas and oil corporations, amounts paid to a corporation under the *Employment Support Act* (Canada) and capital cost allowances related to recent acquisitions of machinery and equipment in the same manner as under the *Income Tax Act* (Canada) for 1972. These provisions are incorporated in Parts I and II of the Act.

The new Act will continue to impose a tax measured with respect to paid-up capital at one-tenth of 1 per cent and special capital taxes on banks, railways, telegraph companies, express companies, sleeping, dining and parlour cars companies at the rates applied under the former Act. The new Act also continues to tax insurance corporations at 2 per cent calculated on all gross premium income plus a tax of one-half of 1 per cent on gross premium income with respect to certain property. The latter tax replaces the levy formerly imposed on fire insurance premiums under *The Fire Marshals Act*. These provisions are found in Parts III and IV of the Act.

The Regulations to be made under the Act pertaining to mining and gas and oil corporations will provide for the continuation of the deduction of exploration and development expenses incurred up to the end of 1971 in the same manner as under the old *Income Tax Act* (Canada) as reflected in the transitional provisions of the new *Income Tax Act* (Canada). Such expenditures incurred after 1971, with the exception of foreign exploration and development expenses, will be deductible in the same way as under the new *Income Tax Act* (Canada). These Regulations will also provide for the continuation of the allowance (commonly referred to as depletion) in respect of an oil or gas well, mine or timber limit. These deductions and allowances are the same as the Federal authorities have indicated will be allowable to the end of 1976.

The administrative sections are contained in Parts V and VI and are the same as they existed under *The Corporations Tax Act*, R.S.O. 1970 except for the new provisions allowing interest on deposits made to obtain lien clearances if, when the return is filed, there is an overpayment of tax.

The Corporations Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

INTERPRETATION

1.—(1) In this Act,

Interpre-
tation

1. "adjusted cost base" has the meaning given to that expression by section 56;
2. "allowable capital loss" has the meaning given to that expression by section 40;
3. "amount" means money, rights or things expressed in terms of the amount of money or the value in terms of money of the right or thing, except that the "amount" of any stock dividend paid by a corporation is the amount of the increase in the paid-up capital of the corporation by virtue of the payment of the dividend;
4. "annuity" includes an amount payable on a periodic basis whether payable at intervals longer or shorter than a year and whether payable under a contract, will or trust or otherwise;
5. "assessment" includes a reassessment;
6. "bank" means a corporation or joint stock company wherever incorporated for the purpose of doing a banking business or the business of a savings bank that transacts such business in Ontario, whether the head office is situate in Ontario or elsewhere;
7. "business" includes a profession, calling, trade, manufacture or undertaking of any kind whatsoever and

includes an adventure or concern in the nature of trade but does not include an office or employment;

1970-71,
c. 63 (Can.)

8. "Canadian-controlled private corporation" has the meaning given to that expression by subsection 6 of section 125 of the *Income Tax Act* (Canada);
9. "Canadian corporation" has the meaning given to that expression by subsection 1 of section 83;
10. "capital dividend" has the meaning given to that expression by subsection 2 of section 77;
11. "capital gain" for a fiscal year from the disposition of any property has the meaning given to that expression by section 41;
12. "capital interest" of a corporation in a trust has the meaning given to that expression by clause *b* of subsection 1 of section 97;
13. "capital loss" for a fiscal year from the disposition of any property has the meaning given to that expression by section 41;
14. "capital property" has the meaning given to that expression by section 56;
15. "common share" is a share the holder of which is not precluded upon the reduction or redemption of the capital stock from participating in the assets of the corporation beyond the amount paid up thereon plus a fixed premium and a defined rate of dividend;
16. "corporation" means any corporation however or wherever incorporated and where any corporation or the whole or any part of the property thereof is placed in the hands or under the control of an agent, assignee, trustee, liquidator, receiver or other official, includes such agent, assignee, trustee, liquidator, receiver or other official, but does not include a corporation incorporated without share capital;
17. "cost amount" to a person of any property at any time means, except as expressly otherwise provided in this Act,
 - i. where the property was depreciable property of the corporation of a prescribed class, that

proportion of the undepreciated capital cost to it of property of that class at that time that the capital cost to it of the property is of the capital cost to it of all property of that class,

- ii. where the property was capital property, other than depreciable property, of the corporation, its adjusted cost base to it at that time,
 - iii. where the property was property described in an inventory of the corporation, its value at that time as determined for the purpose of computing its income,
 - iv. where the property was eligible capital property of the corporation in respect of a business, the cumulative eligible capital of the corporation in respect of the business at that time,
 - v. where the property was a debt owing to the corporation, other than a debt the amount of which was deducted under clause *r* of subsection 1 of section 24 in computing the corporation's income for a fiscal year ending before that time, or any other right of the corporation to receive an amount, the amount of the debt or other right that was outstanding at that time, and
 - vi. in any other case, the cost to the corporation of the property as determined for the purpose of computing its income, except to the extent that such cost has been deducted in computing its income from any fiscal year ending before that time;
- 18. "cumulative eligible capital" has the meaning given to that expression by subsection 4 of section 18;
 - 19. "deferred profit sharing plan" has the meaning given to that expression by subsection 1 of section 120;
 - 20. "depreciable property" has the meaning given to that expression by subsection 17 of section 17;
 - 21. "designated surplus" has the meaning given to that expression by Part VII of the *Income Tax Act*^{1970-71, c. 63 (Can.)} (Canada);

22. "dividend" includes a stock dividend, other than a stock dividend that was paid before 1972;
23. "eligible capital expenditure" has the meaning given to that expression by subsection 4 of section 18;
24. "eligible capital property" has the meaning given to that expression by section 56;
25. "employed" means performing the duties of an office or employment;
26. "employee" includes officer;
27. "employees profit sharing plan" has the meaning given to that expression by subsection 1 of section 118;
28. "employer", in relation to an officer, means the person from whom the officer receives his remuneration;
29. "employment" means the position of an individual in the service of some other person, including Her Majesty or a foreign state or sovereign, and "servant" or "employee" means a person holding such a position;
30. "exempt income" means money or property received or acquired by a corporation in such circumstances that it is, by reason of any provision in Part II, not included in computing its income, but for greater certainty does not include a dividend on a share;
31. "farming" includes tillage of the soil, live stock raising or exhibiting, maintaining of horses for racing, raising of poultry, fur farming, dairy farming, fruit growing and the keeping of bees, but does not include an office or employment under a person engaged in the business of farming;
32. "fiscal year" means the period for which the accounts of the business of a corporation are ordinarily made up and accepted for purposes of assessment under this Act and, in the absence of an established practice, the fiscal year is that adopted by a corporation, but no fiscal year may exceed fifty-three weeks and any change in a usual and accepted fiscal year shall be made for the purposes of this Act only with the concurrence of or in accordance with the direction of the Minister;

33. "fishing" includes fishing for or catching shell fish, crustaceans and marine animals but does not include an office or employment under a person engaged in the business of fishing;
34. "gross revenue" means the aggregate of all amounts received in a fiscal year or receivable in the fiscal year, depending on the method regularly followed by the corporation in computing its profit, otherwise than as or on account of capital;
35. "income bond" or "income debenture" means respectively a bond or debenture in respect of which interest or dividends are payable only when the debtor corporation has made a profit before taking into account the interest or dividend obligation on such bond or debenture;
36. "income interest" of a corporation in a trust has the meaning given to that expression by subsection 1 of section 97;
37. "insurance corporation" or "insurer" means a corporation with or without share capital that carries on an insurance business;
38. "*inter vivos* trust" has the meaning given to that expression by subsection 1 of section 97;
39. "inventory" means a description of property the cost or value of which is relevant in computing the income of a corporation from a business for a fiscal year;
40. "jurisdiction" means a province or territory of Canada or a state outside Canada having sovereign power;
41. "life insurance business" includes,
 - i. an annuities business, and
 - ii. the business of issuing contracts all or any part of the issuer's reserves for which vary in amount depending upon the fair market value of a specified group of assets,

carried on by a life insurance corporation or life insurer;

42. "life insurance corporation" or "life insurer" means a corporation that carries on a life insurance business that is not a business described in subparagraph i or ii of paragraph 41 whether or not it also carries on a business described in either of those subparagraphs;
43. "listed personal property" has the meaning given to that expression by section 56;
44. "minerals" do not include petroleum, natural gas or related hydrocarbons, except coal or bituminous sands;
45. "mineral resource" means,
 - i. a base or precious metal deposit,
 - ii. a coal deposit,
 - iii. a bituminous sands deposit, or
 - iv. a mineral deposit in respect of which,
 - (A) the Minister has certified that the principal mineral extracted is an industrial mineral contained in a non-bedded deposit,
 - (B) the principal mineral extracted is sylvite,
 - (C) the principal mineral extracted is halite that is extracted by underground mining and not by operating a brine well,
 - (D) the principal mineral extracted is silica that is extracted from sandstone or quartzite, or
 - (E) the principal mineral extracted is gypsum;
46. "Minister" means the Minister of Revenue;
47. "net capital loss" has the meaning given to that expression by subsection 7 of section 99;
48. "non-capital loss" has the meaning given to that expression by subsection 7 of section 99;

49. "non-resident" means not resident in Canada;
50. "non-resident-owned investment corporation" has the meaning given to that expression by subsection 5 of section 110;
51. "paid-up capital deficiency" has the meaning given to that expression by clause *d* of subsection 1 of section 83;
52. "permanent establishment" has the meaning given to that expression by section 7;
53. "personal-use property" has the meaning given to that expression by section 56;
54. "preferred share" means a share other than a common share;
55. "prescribed" in the case of a form or the information to be given on a form, means prescribed by order of the Minister, and in any other case, means prescribed by regulation;
56. "principal amount" in relation to any obligation means the amount that, under the terms of the obligation or any agreement relating thereto, is the maximum amount or maximum aggregate amount, as the case may be, payable on account of the obligation by the issuer thereof, otherwise than as or on account of interest or as or on account of any premium payable by the issuer conditional upon the exercise by the issuer of a right to redeem the obligation before the maturity thereof;
57. "private corporation" has the meaning given to that expression by subsection 1 of section 83;
58. "property" means property of any kind whatsoever whether real or personal or corporeal or incorporeal and, without restricting the generality of the foregoing, includes a right of any kind whatever, a share or a chose in action and, unless a contrary intention is evident, money;
59. "public corporation" has the meaning given to that expression by subsection 1 of section 83;
60. "railway" includes a railway and part of a railway operated in whole or in part by steam, electricity or

other motive power, constructed and operated on highways or on land owned by the corporation that owns or operates it, or partly on highways and partly on such land, but does not include a street railway constructed or operated in whole or in part upon or along a highway under or by virtue of an agreement with or a by-law of a city or town;

61. "registered Canadian amateur athletic association" has the meaning given to that expression by subsection 4 of section 98;
62. "registered Canadian charitable organization" has the meaning given to that expression by subsection 4 of section 98;
63. "registered pension fund or plan" means an employees' superannuation or pension fund or plan accepted for registration by the Minister of National Revenue for purposes of the *Income Tax Act* (Canada) in respect of its constitution and operations for the fiscal year under consideration;
64. "registered supplementary unemployment benefit plan" has the meaning given to that expression by subsection 1 of section 119;
65. "regulations" means regulations made under this Act;
66. "resident in Canada" means resident in Canada for purposes of the *Income Tax Act* (Canada);
67. "restricted farm loss" has the meaning given to that expression by subsection 1 of section 33;
68. "share" means a share of capital stock of a corporation;
69. "shareholder" includes a member or other person entitled to receive payment of a dividend;
70. "subsidiary controlled corporation" means a corporation more than 50 per cent of the issued share capital of which, having full voting rights under all circumstances, belongs to the corporation to which it is subsidiary;
71. "subsidiary wholly-owned corporation" means a corporation all the issued share capital of which, except directors' qualifying shares, belong to the corporation to which it is subsidiary;

1970-71,
c. 63 (Can.)

72. "superannuation or pension benefit" includes any amount received out of or under a superannuation or pension fund or plan and without restricting the generality of the foregoing, includes any payment made to a beneficiary under the fund or plan or to an employer or former employer of the beneficiary thereunder,
- i. in accordance with the terms of the fund or plan,
 - ii. resulting from an amendment to or modification of the fund or plan, or
 - iii. resulting from the termination of the fund or plan;
73. "supplementary unemployment benefit plan" has the meaning given to that expression by subsection 1 of section 119;
74. "tax payable" by a corporation under any Part of the Act means the tax payable by the corporation as fixed by assessment or reassessment subject to variation on objection or appeal, if any, in accordance with sections 154 to 160, as the case may be;
75. "taxable Canadian corporation" has the meaning given to that expression by subsection 1 of section 83;
76. "taxable Canadian property" has the meaning given to that expression by subsection 1 of section 115 of the *Income Tax Act* (Canada) except that, for the purposes only of section 2, the expression "taxable Canadian property" includes a Canadian resource property, within the meaning given to that expression by subsection 12 of section 63, any property that would have been a Canadian resource property within the meaning given to that expression by subsection 12 of section 63, if it had been acquired after 1971, and an income interest in a trust resident in Canada;
77. "taxable capital gain" has the meaning given to that expression by section 40;
78. "taxable dividend" has the meaning given to that expression by subsection 1 of section 83;
79. "taxable income" has the meaning given to that expression by section 9;

80. "taxable income earned in Canada" has the meaning given to that expression by section 10;
81. "taxable net gain" from dispositions of listed personal property has the meaning given to that expression by section 43;
82. "taxation year" means that fiscal year in relation to which the amount of a tax under this Act is being calculated when the expression is used to distinguish it from another fiscal year;
83. "tax-paid undistributed surplus on hand" has the meaning given to that expression by subsection 1 of section 83;
84. "trust" has the meaning given to that expression by subsection 1 of section 248 of the *Income Tax Act* (Canada);
85. "unit trust" has the meaning given to that expression by subsection 2 of section 97;
86. "1971 capital surplus on hand" has the meaning given to that expression by subsection 1 or 2 of section 83;
87. "1971 undistributed income on hand" has the meaning given to that expression by subsection 4 or 5 of section 196 of the *Income Tax Act* (Canada).

1970-71,
c. 63 (Can.)

"Taxation
year"

(2) For the purposes of this Act, a reference to a taxation year ending in another year includes a reference to a taxation year ending coincidentally with that other year.

Arm's
length

(3) For the purposes of this Act,

- (a) related persons shall be deemed not to deal with each other at arm's length; and
- (b) it is a question of fact whether persons not related to each other were at a particular time dealing with each other at arm's length.

Relationship
defined

(4) For the purpose of this Act "related persons", or persons related to each other, are,

- (a) individuals connected by blood relationship, marriage or adoption;
- (b) a corporation and,
 - (i) a person who controls the corporation, if it is controlled by one person,

- (ii) a person who is a member of a related group that controls the corporation, or
 - (iii) any person related to a person described in subclause i or ii;
- (c) any two corporations,
- (i) if they are controlled by the same person or group of persons,
 - (ii) if each of the corporations is controlled by one person and the person who controls one of the corporations is related to the person who controls the other corporation,
 - (iii) if one of the corporations is controlled by one person and that person is related to any member of a related group that controls the other corporation,
 - (iv) if one of the corporations is controlled by one person and that person is related to each member of an unrelated group that controls the other corporation,
 - (v) if any member of a related group that controls one of the corporations is related to each member of an unrelated group that controls the other corporation, or
 - (vi) if each member of an unrelated group that controls one of the corporations is related to at least one member of an unrelated group that controls the other corporation.

(5) Where two corporations are related to the same corporation within the meaning of subsection 4, they shall, for the purposes of subsections 3 and 4, be deemed to be related to each other.

Corporations
related to
each other

(6) In this Act,

Groups

- (a) “related group” means a group of persons each member of which is related to every other member of the group; and
- (b) “unrelated group” means a group of persons that is not a related group.

Control by
related
groups,
options, etc.

(7) For the purposes of subsection 4,

- (a) where a related group is in a position to control a corporation, it shall be deemed to be a related group that controls the corporation whether or not it is part of a larger group by whom the corporation is in fact controlled;
- (b) a person who had a right under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, shares in a corporation, or to control the voting rights of shares in a corporation, shall, except where the contract provided that the right is not exercisable until the death of an individual designated therein, be deemed to have had the same position in relation to the control of the corporation as if he owned the shares; and
- (c) where a person owns shares in two or more corporations, he shall as shareholder of one of the corporations be deemed to be related to himself as shareholder of each of the other corporations.

Persons
related by
blood
relationship,
etc.

(8) For the purposes of this Act,

- (a) persons are connected by blood relationship if one is the child or other descendant of the other or one is the brother or sister of the other;
- (b) persons are connected by marriage if one is married to the other or to a person who is so connected by blood relationship to the other; and
- (c) persons are connected by adoption if one has been adopted, either legally or in fact, as a child of the other or as the child of a person who is so connected by blood relationship, otherwise than as a brother or sister, to the other. R.S.O. 1970, c. 91, s. 1, *amended*.

LIABILITY FOR TAXES



Taxes
payable

2.—(1) Every corporation that is incorporated under the laws of Canada or a province thereof and that has a permanent establishment in Ontario shall for every fiscal year of the corporation pay to Her Majesty for the uses of Ontario the taxes imposed by this Act at the time and in the manner provided in this Act. R.S.O. 1970, c. 91, s. 4 (1), *amended*.

(2) Every corporation that is incorporated under the laws ^{Idem} of a jurisdiction outside Canada, which jurisdiction has not entered into a Tax Convention or Treaty with Canada for the fiscal year, and that at any time in the fiscal year or a previous fiscal year,

(a) had a permanent establishment in Ontario within the meaning of section 7; or


(b) owned real property in Ontario the income from which arose from the sale or rental thereof; or


 (c) disposed of taxable Canadian property within the meaning given to that expression by paragraph 77 of subsection 1 of section 1 that was property situated in Ontario as prescribed by regulation, 

shall for every fiscal year of the corporation pay to Her Majesty for the uses of Ontario the taxes imposed by this Act at the time and in the manner provided in this Act.



(3) Every corporation that is incorporated under the laws ^{Idem} of a jurisdiction outside Canada, which jurisdiction has entered into a Tax Convention or Treaty with Canada for the fiscal year, and that, at any time in the fiscal year or a previous fiscal year,

(a) had a permanent establishment in Ontario within the meaning of section 7; or

 (b) owned real property in Ontario the income from which arose from the sale or rental thereof and the corporation has elected to file a return of income under Part I of the *Income Tax Act* (Canada) pursuant to ^{1970-71, c. 63 (Can.)} section 216 of that Act; or

(c) disposed of taxable Canadian property within the meaning given to that expression by paragraph 77 of subsection 1 of section 1 that was property situated in Ontario as prescribed by regulation, 

shall for every fiscal year of the corporation pay to Her Majesty for the uses of Ontario the taxes imposed by this Act at the time and in the manner provided in this Act. R.S.O. 1970, c. 91, s. 4 (1), *amended*.

 (4) For the purposes of the election referred to in clause *b* ^{Idem} of subsection 3, the reference in that subsection to "at any time in the fiscal year or a previous fiscal year," shall be read without reference to "or a previous fiscal year". 

3. For the purposes of subsection 2 or 3 of section 2, a ^{Interpretation} corporation "owned real property" if it had a legal, equitable or beneficial interest in the real property. R.S.O. 1970, c. 91, s. 3 (10), *amended*.

Calendar
year

4. For the purposes of this Act, where a fiscal year is referred to by a reference to a calendar year, the reference is to the fiscal year or years coinciding with, or ending in, that year. R.S.O. 1970, c. 91, s. 4 (2).

Incomplete
fiscal
year

5. Where a corporation ceases to be liable for taxes imposed under this Act during a fiscal year or the existence of a corporation is terminated during a fiscal year, it shall, in respect of such incomplete fiscal year, pay the taxes imposed by this Act in the same manner as though such fiscal year ended on the date on which it ceased to be liable for taxes or upon which its existence was terminated, as the case may be. R.S.O. 1970, c. 91, s. 4 (3), *amended*.

How tax
to be
determined

6.—(1) Unless otherwise provided in this Act, any tax imposed by this Act shall be determined on the amount of the paid-up capital stock, mileage or other subject in respect of which the amount of the tax is to be ascertained as such paid-up capital stock, mileage or other subject stood at the close of the fiscal year of the corporation for which the tax is imposed.

Idem

(2) Any tax imposed by this Act that is to be calculated in respect of,

(a) the taxable income of a corporation; or

(b) the gross premiums that become payable to insurance corporations,

shall be calculated with reference to the taxable income earned or the gross premiums that become payable, as the case may be, during the fiscal year of the corporation for which the respective tax is imposed. R.S.O. 1970, c. 91, s. 72.

Permanent
establish-
ment

7.—(1) In this Act, "permanent establishment" includes branches, mines, oil wells, farms, timberlands, factories, workshops, warehouses, offices, agencies and other fixed places of business.

Idem

(2) Where a corporation carries on business through an employee or agent who has general authority to contract for the corporation or who has a stock of merchandise owned by the corporation from which he regularly fills orders which he receives, such employee or agent shall be deemed to operate a permanent establishment of the corporation.

Idem

(3) The fact that a corporation has business dealings through a commission agent, broker or other independent agent shall not of itself be deemed to mean that the corporation has a permanent establishment.

Idem

(4) The fact that a corporation has a subsidiary controlled corporation in a place or a subsidiary controlled corporation engaged in a trade or business in a place shall not of itself be

deemed to mean that the first-mentioned corporation is operating a permanent establishment in that place.

(5) An insurance corporation is deemed to have a permanent ^{Idem} establishment in each jurisdiction in which the corporation is registered or licensed to do business.

(6) The fact that a corporation maintains an office solely for ^{Idem} the purchase of merchandise shall not of itself be deemed to mean that the corporation has a permanent establishment in that office.

(7) Where a corporation, otherwise having a permanent ^{Idem} establishment in Canada, owns land in a province, such land is a permanent establishment.

(8) The fact that a non-resident corporation in a fiscal year ^{Idem} produced, grew, mined, created, manufactured, fabricated, improved, packed, preserved or constructed in whole or in part anything in Canada whether or not the corporation exported that thing without selling it prior to exportation, shall of itself, for the purposes of this Act, be deemed to mean that the corporation maintained a permanent establishment at any place where the corporation did any of those things in the fiscal year.

(9) The use of substantial machinery or equipment in a ^{Idem} particular place at any time in a fiscal year of a corporation constitutes a permanent establishment of such corporation in that place for the fiscal year.

(10) Where a corporation has no fixed place of business, it ^{Idem} has a permanent establishment in the principal place in which the corporation's business is conducted.

(11) A corporation has a permanent establishment in the ^{Idem} place designated in its charter or by-laws as being its head office. R.S.O. 1970, c. 91, s. 3, *amended*.

PART II

DIVISION A—LIABILITY FOR INCOME TAX

8.—(1) Except as otherwise provided in this Part, every ^{Income tax} corporation liable to the taxes imposed under this Act by virtue of subsection 1 of section 2, shall, for every fiscal year of the corporation pay an income tax as hereinafter required upon its taxable income.

(2) Except as otherwise provided in this Part, every cor- ^{Idem} poration liable to the taxes imposed under this Act by virtue of subsection 2 or 3 of section 2, shall, for every fiscal year of the corporation pay an income tax as hereinafter required upon its taxable income earned in Canada. R.S.O. 1970, c. 91, s. 4 (1), *amended*.

Idem

9. The taxable income of a corporation for a fiscal year is its income for the fiscal year minus the deductions permitted by Division C. R.S.O. 1970, c. 91, s. 14, *amended*.

Idem

10. The taxable income earned in Canada of a corporation for a fiscal year is its taxable income earned in Canada determined under Division D. *New*.

Exemptions

11. Except as provided in subsection 3 or 4 of section 122 no tax is payable under this Part upon the taxable income of a corporation for a period when that corporation was a corporation referred to in section 122. *New*.

DIVISION B—COMPUTATION OF INCOME

Basic Rules

Income for
fiscal year

12. The income of a corporation for a fiscal year for purposes of this Part is its income for the year determined by the following rules,

- (a) determine the aggregate of amounts each of which is the income of the corporation for the fiscal year, other than a taxable capital gain from the disposition of a property, from a source inside or outside Canada, including, without restricting the generality of the foregoing, its income for the fiscal year from each business and property;
- (b) determine the amount, if any, by which,
 - (i) the aggregate of its taxable capital gains for the fiscal year from dispositions of property other than listed personal property, and its taxable net gain for the fiscal year from dispositions of listed personal property,
 - exceeds,
 - (ii) its allowable capital losses for the fiscal year from dispositions of property other than listed personal property;
- (c) determine the amount, if any, by which the aggregate determined under clause *a* plus the amount determined under clause *b* exceeds the aggregate of the deductions permitted by Subdivision D in computing the income of the corporation for the fiscal year, except such of or such part of those deductions, if any, as have been taken into account in determining the aggregate referred to in clause *a*; and

- (d) determine the amount, if any, by which the remainder determined under clause *c* exceeds the aggregate of amounts each of which is its loss for the fiscal year from a business or property,

and the remainder, if any, obtained under clause *d* is the income of the corporation for the fiscal year for the purposes of this Part. R.S.O. 1970, c. 91, s. 15, *amended*.

13.—(1) For the purposes of this Act,

- (a) the income or loss of a corporation for a fiscal year from a business, property or other source, or from sources in a particular place, is its income or loss, as the case may be, computed in accordance with this Act on the assumption that it had during the fiscal year no income or loss except from that source or no income or loss except from those sources, as the case may be, and was allowed no deductions in computing its income for the fiscal year except such deductions as may reasonably be regarded as wholly applicable to that source or to those sources, as the case may be, and except such part of any other deductions as may reasonably be regarded as applicable thereto; and R.S.O. 1970, c. 91, s. 25 (4), *amended*.
- (b) where the business carried on or the service performed by a corporation was carried on or performed, as the case may be, partly in one place and partly in another place, the income or loss of the corporation for the fiscal year from the business carried on or the service performed by it in a particular place is the income or loss of the corporation, as the case may be, computed in accordance with this Act on the assumption that it had during the fiscal year no income or loss except from the part of the business that was carried on or the service performed in that particular place, as the case may be, and was allowed no deductions in computing its income for the fiscal year except such deductions as may reasonably be regarded as wholly applicable to that part of the business or the services performed, as the case may be, and except such part of any other deductions as may reasonably be regarded as applicable thereto. R.S.O. 1970, c. 91, s. 25 (5), *amended*.

(2) Subject to subsection 3, in applying subsection 1 for the purposes of this Part, no deductions permitted by subsection 1 of section 60 are applicable either wholly or in part to a particular source or to sources in a particular place, as the case may be. *New*.

Deductions
applicable

(3) In applying clause *b* of subsection 1 for the purposes of section 101 all deductions allowed in computing the income of a corporation for a fiscal year for the purposes of this Part shall be deemed to be applicable either wholly or in part to a particular source or to sources in a particular place, as the case may be. *New.*

Limitation
respecting
inclusions
and
deductions

(4) Unless a contrary intention is evident, no provision of this Part shall be read or construed to require the inclusion or to permit the deduction, in computing the income of a corporation for a fiscal year or its income or loss for a fiscal year from a particular source or from sources in a particular place, of any amount to the extent that that amount has been included or deducted, as the case may be, in computing such income or loss under, in accordance with or by virtue of any other provision of this Part. *New.*

SUBDIVISION A—INCOME OR LOSS FROM A BUSINESS OR PROPERTY

Basic Rules

Income
from
business or
property

14.—(1) Subject to this Part, the income of a corporation for a fiscal year from a business or property is its profit therefrom for the fiscal year. R.S.O. 1970, c. 91, s. 16, *amended.*

Loss from
business or
property

(2) Subject to section 33, the loss of a corporation for a fiscal year from a business or property is the amount of its loss, if any, for the fiscal year from that source computed by applying the provisions of this Act respecting computation of income from that source *mutatis mutandis.*

Gains and
losses not
included

(3) In this Act, “income from a property” does not include any capital gain from the disposition of that property and “loss from a property” does not include any capital loss from the disposition of that property. *New.*

Valuation
of inventory
property

15.—(1) For the purpose of computing income from a business, the property described in an inventory shall, except as provided in subsection 2, be valued at the same amount and for the same fiscal year, as is accepted for assessment under the *Income Tax Act* (Canada) and the regulations made thereunder. R.S.O. 1970, c. 91, s. 26 (1), *amended.*

1970-71.
c. 63 (Can.)

Idem

(2) Notwithstanding subsection 1, the Minister may determine the value of the property described in an inventory for the purposes of assessment under this Act if he is of the opinion that the values have been incorrectly determined by the corporation. *New.*

(3) Notwithstanding subsections 1 and 2, for the purpose of ^{Idem} computing income for a fiscal year from a business, the property described in an inventory at the commencement of the fiscal year shall be valued at the same amount as the amount at which it was valued at the end of the immediately preceding fiscal year for the purpose of computing income for that preceding fiscal year. R.S.O. 1970, c. 91, s. 26 (2), *amended*.

(4) Where the property described in the inventory of a ^{Incorrect valuation} business at the commencement of a fiscal year has, according to the method adopted by the corporation for computing income from the business for that fiscal year, not been valued as required by subsection 1 or 2, the property described therein at the commencement of that fiscal year shall, if the Minister so directs, be deemed to have been valued as required by that subsection. R.S.O. 1970, c. 91, s. 36, *amended*.

Inclusions

16.—(1) There shall be included in computing the income ^{Amounts to be included as income from business or property} of a corporation for a fiscal year as income from a business or property such of the following amounts as are applicable,

- (a) any amount received by the corporation in the year ^{Services, etc., to be rendered} in the course of a business,
 - (i) that is on account of services not rendered or goods not delivered before the end of the year or that, for any other reason, may be regarded as not having been earned in the year or a previous year, or
 - (ii) under an arrangement or understanding that it is repayable in whole or in part on the return or resale to the corporation of articles in or by means of which goods were delivered to a customer; R.S.O. 1970, c. 91, s. 61 (1) (a).
- (b) any amount receivable by the corporation in respect ^{Amounts receivable in respect of services, etc., rendered} of property sold or services rendered in the course of a business in the year, notwithstanding that the amount may not be receivable until a subsequent year, unless the method adopted by the corporation for computing income from the business and accepted for the purpose of this Part does not require it to include any amount receivable in computing its income for a fiscal year unless it has been received in the year; R.S.O. 1970, c. 91, s. 61 (1) (b).
- (c) any amount received by the corporation in the year ^{Interest} or receivable by the corporation in the year, depend-

ing upon the method regularly followed by the corporation in computing its profit, as, on account or in lieu of payment of, or in satisfaction of, interest; R.S.O. 1970, c. 91, s. 17 (c).

Reserve for doubtful debts

- (d) any amount deducted as a reserve for doubtful debts in computing the corporation's income for the immediately preceding year; R.S.O. 1970, c. 91, s. 17 (e).

Reserves in respect of certain goods and services, etc.

- (e) any amount,
- (i) deducted under clause *o* of subsection 1 of section 24, including any amount substituted by virtue of subsection 7 of section 24 for any amount deducted under that clause, or subsection 8 of section 24, or
 - (ii) deducted under clause *p* of subsection 1 of section 24 or subsection 8 of section 24,

in computing the corporation's income from a business for the immediately preceding year; R.S.O. 1970, c. 91, s. 61 (1) (f).

Insurance proceeds expended

- (f) such part of any amount payable to the corporation as compensation for damage to, or under a policy of insurance in respect of damage to, property that is depreciable property of the corporation as has been expended by the corporation,

(i) within the year, and

(ii) within a reasonable time after the damage,

on repairing the damage; R.S.O. 1970, c. 91, s. 17 (f).

Payments based on production or use

- (g) any amount received by the corporation in the year that was dependent upon the use of or production from property whether or not that amount was an instalment of the sale price of the property, except that an instalment of the sale price of agricultural land is not included by virtue of this clause; R.S.O. 1970, c. 91, s. 17 (i).

Previous reserve for quadrennial survey

- (h) any amount deducted as a reserve under clause *q* of subsection 1 of section 24 in computing the corporation's income for the immediately preceding year; R.S.O. 1970, c. 91, s. 17 (g).

- (i) any amount received in the year on account of a ^{Bad debts recovered} debt in respect of which a deduction for bad debts had been made in computing the corporation's income for a previous year; R.S.O. 1970, c. 91, s. 17 (*h*).
- (j) any amount required by Subdivision G to be included ^{Dividends from corporations resident in Canada} in computing the corporation's income for the year in respect of a dividend paid by a corporation resident in Canada on a share of its capital stock; R.S.O. 1970, c. 91, s. 17 (*a*).
- (k) any amount required by Subdivision H to be included ^{Dividends from other corporations} in computing the corporation's income for the year in respect of a dividend paid by a corporation not resident in Canada on a share of its capital stock;
- (l) any amount that is, by virtue of Subdivision I ^{Partnership income} income of the corporation for the year from a business or property; R.S.O. 1970, c. 91, s. 17 (*d*).
- (m) any amount required by Subdivision J to be included ^{Benefits from estates, etc.} in computing the income of a corporation for the year except any amount deemed by that subdivision to be a taxable capital gain of the corporation; and *New*.
- (n) any amount received by the corporation in the ^{Employees profit sharing plan} year under an employees profit sharing plan established for the benefit of employees of the corporation or of another corporation with whom the corporation does not deal at arm's length. R.S.O. 1970, c. 91, s. 17 (*j*).

(2) Clauses *a* and *b* of subsection 1 are enacted for greater ^{Interpretation} certainty and shall not be construed as implying that any amount not referred to therein is not to be included in computing income from a business for a fiscal year whether it is received or receivable in the year or not. R.S.O. 1970, c. 91, s. 61 (2).

17.—(1) Where depreciable property of a corporation of a ^{Excess of proceeds over undepreciated capital cost} prescribed class has, in a fiscal year, been disposed of and the proceeds of disposition exceed the undepreciated capital cost to it of depreciable property of that class immediately before the disposition, the lesser of,

- (a) the amount of the excess; and
- (b) the amount that the excess would be if the property had been disposed of for the capital cost thereof to the corporation,

shall be included in computing the income of the corporation for the year. R.S.O. 1970, c. 91, s. 32 (1).

Deter-
mination of
net amount

(2) Where one or more amounts are by subsection 1 required to be included in computing a corporation's income for a fiscal year in respect of the disposition of depreciable property of a prescribed class and the corporation has, during the year but following the dispositions, acquired further depreciable property of that class, notwithstanding subsection 1 and clause *f* of subsection 17 the following rules apply,

- (a) if the aggregate of the amounts that would, according to the terms of subsection 1, be included thereunder in computing the income of the corporation is equal to or exceeds the amount that would, according to the terms of clause *f* of subsection 17, be the undepreciated capital cost to the corporation of depreciable property of that class at the end of the year before any deduction is made under clause *a* of subsection 1 of section 24 for that year,
 - (i) the amount to be included in computing the income of the corporation for the year under subsection 1 in respect of dispositions of depreciable property of that class is that aggregate minus the amount that would be that undepreciated capital cost, and
 - (ii) the undepreciated capital cost to the corporation of depreciable property of that class at the end of the year is nil; and
- (b) if the aggregate of the amounts that would, according to the terms of subsection 1, be included thereunder in computing the income of the corporation is less than the amount that would, according to the terms of clause *f* of subsection 17, be the undepreciated capital cost to the corporation of depreciable property of that class at the end of the year before any deduction is made under clause *a* of subsection 1 of section 24 for that year,
 - (i) no amounts shall be included in computing the income of the corporation for the year in respect of depreciable property of that class under subsection 1, and
 - (ii) the undepreciated capital cost to the corporation of depreciable property of that class at the end of the year before any deduction is made

under clause *a* of subsection 1 of section 24 for the year is the amount that it would be according to the terms of clause *f* of subsection 17 minus that aggregate. R.S.O. 1970, c. 91, s. 32 (2).

(3) Where an amount that would otherwise be included in computing the income of a corporation for a fiscal year, hereinafter referred to as the "initial year", by virtue of this section is, ^{Insurance and compensation proceeds}

- (a) an amount payable, in respect of loss or destruction of property of a prescribed class,
 - (i) under a policy of insurance, or
 - (ii) otherwise as compensation for the property so lost or destroyed; or
- (b) an amount payable as compensation for property of a prescribed class taken under statutory authority or as the sale price of property sold to a person by whom notice of an intention to take it under statutory authority was given,

the following rules apply,

- (c) the amount shall not, to the extent that it has been expended by the corporation,
 - (i) in the fiscal year immediately following the initial year on acquiring property of the same class,
 - (ii) in the fiscal year immediately following the initial year on acquiring, if the property so lost, destroyed, taken or sold was a building, a building of a prescribed class, or
 - (iii) within a time certified by the Minister to be a reasonable time following the initial year, on acquiring, if the property so lost, destroyed, taken or sold was a vessel, a vessel of a prescribed class,

be included in computing the income of the corporation for the initial year; and

- (d) the amount shall, to the extent that it has not been included in computing the income of the corporation for the initial year, be deemed to be proceeds of a disposition made,

- (i) in the case of a vessel, in the fiscal year in which it is in whole or in part expended in accordance with clause *c*, but only to the extent that it is so expended in that year and only if such year is within the time certified by the Minister under subclause iii of clause *c*, and
- (ii) in the case of any other property, in the fiscal year immediately following the initial year,

of depreciable property of the corporation of the same class as the property so acquired. R.S.O. 1970, c. 91, s. 32 (5).

Transferred
property

(4) Where depreciable property of a corporation that was included in a prescribed class, hereinafter in this subsection referred to as the "former class", has been transferred to another prescribed class, hereinafter in this subsection referred to as the "other class", for the purposes of clause *f* of subsection 17,

(a) there shall be added to the capital cost to the corporation of depreciable property of the former class acquired before the transfer, the greater of,

(i) the amount, if any, by which the capital cost to the corporation of the transferred property exceeds the undepreciated capital cost to the corporation of depreciable property of the former class immediately before the transfer, and

(ii) the aggregate of all amounts that would have been allowed to the corporation in respect of the transferred property, if it had been a prescribed class, at the rate that was allowed to the corporation in respect of property of the former class under regulations made under clause *a* of subsection 1 of section 24 in computing income for the fiscal years before the transfer; and

(b) there shall be added to the total depreciation allowed to the corporation for property of the other class the greater of the amounts determined under subclauses i and ii of clause *a*. R.S.O. 1970, c. 91, s. 32 (6), *amended*.

Misclassified
property

(5) Where, in calculating the amount of a deduction allowed to a corporation under regulations made under clause *a* of subsection 1 of section 24 in respect of depreciable property of the corporation of a prescribed class, there has been added to

the capital cost to the corporation of depreciable property of that class the capital cost of depreciable property, hereinafter in this subsection referred to as "added property", of another prescribed class, for the purpose of this section and regulations made under clause *a* of subsection 1 of section 24 the added property shall, if the Minister so directs with reference to any fiscal year for which, within the time specified in clause *a* or *b* of subsection 4 of section 150, the Minister may make any reassessment or additional assessment or assess tax interest or penalties under this Part as the circumstances require, be deemed to have been property of the first-mentioned class and not of the other class at all times before the commencement of that year and, except to the extent that that property or any part thereof has been disposed of by the corporation before the commencement of that year, to have been transferred from the first-mentioned class to the other class at the commencement of that year. R.S.O. 1970, c. 91, s. 32 (7).

(6) For the purpose of this section and any regulations made ^{Rules applicable} under clause *a* of subsection 1 of section 24, the following rules apply:

1. Where a corporation having acquired property for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, has commenced at a later time to use it for some other purpose, the corporation shall be deemed to have disposed of it at that later time at its fair market value at that time. R.S.O. 1970, c. 91, s. 32 (8) par. 1.
2. Where a corporation, having acquired property for some other purpose, has commenced at a later time to use it for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, the corporation shall be deemed to have acquired it at that later time at its fair market value at that time. R.S.O. 1970, c. 91, s. 32 (8) par. 2.
3. Where property has, since it was acquired by a corporation, been regularly used in part for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business and in part for some other purpose, the corporation shall be deemed to have acquired, for the purpose of gaining or producing income, the proportion of the property that the use regularly made of the property for gaining or producing income is of the whole use regularly made of the property at a capital cost to the

corporation equal to the same proportion of the capital cost to it of the whole property; and, if the property has, in such a case, been disposed of, the proceeds of disposition of the proportion of the property deemed to have been acquired for gaining or producing income shall be deemed to be the same proportion of the proceeds of disposition of the whole property. R.S.O. 1970, c. 91, s. 32 (8) par. 5.

4. Where, at any time after a corporation has acquired property, there has been a change in the relation between the use regularly made by the corporation of the property for gaining or producing income and the use regularly made of the property for other purposes,

(i) if the use regularly made by the corporation of the property for the purpose of gaining or producing income has increased, the corporation shall be deemed to have acquired at that time depreciable property of that class at a capital cost equal to the proportion of the fair market value of the property as of that time that the amount of the increase in the use regularly made by the corporation of the property for that purpose is of the whole use regularly made of the property, and

(ii) if the use regularly made of the property for the purpose of gaining or producing income has decreased, the corporation shall be deemed to have disposed at that time of depreciable property of that class and the proceeds of disposition shall be deemed to be an amount equal to the proportion of the fair market value of the property as of that time that the amount of the decrease in the use regularly made by the corporation of the property for that purpose is of the whole use regularly made of the property. R.S.O. 1970, c. 91, s. 32 (8) par. 6.

5. Where a corporation has received or is entitled to receive a grant, subsidy or other assistance from a government, municipality or other public authority in respect of or for the acquisition of property, other than an amount authorized to be paid under an *Appropriation Act* (Canada) in respect of which the provisions of clause *e* of subsection 7 of section 13 of the *Income Tax Act* (Canada) would not apply, or an

amount authorized to be paid under the *Industrial Research and Development Incentives Act* (Canada) or the *Area Development Incentives Act* (Canada) and approved by the Minister, the capital cost of the property shall be deemed to be the capital cost thereof to the corporation minus the amount of the grant, subsidy or other assistance. R.S.O. 1970, c. 91, s. 32 (8) par. 8.

(7) In applying paragraphs 1, 2, 3 and 4 of subsection 6 in respect of a corporation not resident in Canada, a reference to a "business" shall be read as a reference to a business wholly carried on in Canada or such part of a business as is wholly carried on in Canada. R.S.O. 1970, c. 91, s. 32 (9). ^{"Business" defined}

(8) Where, in computing the income of a corporation for a fiscal year, an amount has been deducted under clause *ee* of subsection 1 of section 24 or the corporation has elected under subsection 10 of section 24 to make a deduction in respect of an amount that would otherwise have been deductible under that clause, the amount shall, if it was a payment on account of the capital cost of depreciable property, be deemed to have been allowed to the corporation in respect of the property under regulations made under clause *a* of subsection 1 of section 24 in computing the income of the corporation, ^{Application of s. 24 (1) (ee)}

(a) for the fiscal year; or

(b) for the fiscal year in which the property was acquired,

whichever is the later. R.S.O. 1970, c. 91, s. 32 (12).

(9) Where a deduction has been made under the *Canadian Vessel Construction Assistance Act* for any year, subsection 1 is applicable in respect of the prescribed class created by that Act or any other prescribed class to which the vessel may have been transferred. R.S.O. 1970, c. 91, s. 32 (13). ^{Where deduction under Canadian Vessel Construction Assistance Act}

(10) For the purposes of this section and any regulations made under clause *a* of subsection 1 of section 24 a vessel in respect of which any conversion cost is incurred after March 23, 1967 shall, to the extent of the conversion cost, be deemed to be included in a separate prescribed class. R.S.O. 1970, c. 91, s. 32 (14). ^{Conversion cost of vessel deemed prescribed class}

(11) Where a vessel owned by a corporation on January 1, 1966 or constructed pursuant to a construction contract entered into by the corporation prior to 1966 and not completed by that date is disposed of by the corporation before 1974, ^{Subs. 1 and Subdivision B not applicable in certain cases}

(a) subsection 1 and Subdivision B do not apply to the proceeds of disposition,

(i) if an amount at least equal to the proceeds of disposition is used by the corporation, before 1974 and during the fiscal year of the corporation in which the vessel is disposed of or within 4 months from the end of the fiscal year, under conditions satisfactory to the Minister, either for replacement or to incur any conversion cost with respect to a vessel owned by the corporation, or

(ii) if the Minister certifies that the corporation has, on satisfactory terms deposited,

(A) on or before the day on which the corporation is required to file a return for the fiscal year in which the vessel was disposed of, or

(B) on or before such day subsequent to the day referred to in sub-subclause A, as the Minister may specify in respect of the corporation,

an amount at least equal to the tax that would, but for this subsection, be payable by the corporation under this Part in respect of the proceeds of disposition, or satisfactory security therefor, as a guarantee that the proceeds of disposition will be used before 1974 for replacement; and

(b) the corporation may, within the time prescribed for the filing of a return for the fiscal year in which the vessel was disposed of, elect to have the vessel constituted a prescribed class, or, if any conversion cost in respect of the vessel has been included in a separate prescribed class, have it transferred to that class, and, if the corporation so elects, the vessel shall be deemed to have been so transferred immediately before the disposition thereof but this clause does not apply unless the proceeds of disposition of the vessel exceed the amount that would be the undepreciated capital cost of the property of the class to which it would be so transferred. R.S.O. 1970, c. 91, s. 32 (15).

Election in
respect of
proceeds of
disposition
of vessel

(12) Where a vessel owned by a corporation is disposed of by it, the corporation may, if subsection 11 does not apply

to the proceeds of disposition or if the corporation does not make an election under clause *b* of subsection 11, within the time prescribed for the filing of a return for the fiscal year in which the vessel is disposed of, elect to have the proceeds that would be included in computing its income for the year by virtue of this Part treated as proceeds of disposition of property of another prescribed class that includes a vessel owned by the corporation. R.S.O. 1970, c. 91, s. 32 (16).

(13) Where a separate prescribed class has been constituted either under this Act or the *Canadian Vessel Construction Assistance Act* by virtue of the conversion of a vessel owned by a corporation and the vessel is disposed of by the corporation, if no election is made under clause *b* of subsection 11, the separate prescribed class constituted by virtue of the conversion shall be deemed to have been transferred to the class in which the vessel was included immediately before the disposition thereof. R.S.O. 1970, c. 91, s. 32 (17).

Prescribed class constituted by conversion cost deemed part of class constituted by vessel on disposition

(14) Notwithstanding any other provision of this Act, where a corporation has,

Reassessments

- (a) expended an amount as described in subclause iii of clause *c* of subsection 3; or
- (b) made an election under clause *b* of subsection 11 with respect to a vessel and the proceeds of disposition of the vessel have been used before 1974 for replacement under conditions satisfactory to the Minister,

such reassessments of tax, interest or penalties shall be made as are necessary to give effect to subsections 3 and 11. R.S.O. 1970, c. 91, s. 32 (18).

(15) All or any part of a deposit made under subclause ii of clause *a* of subsection 11 or under the *Canadian Vessel Construction Assistance Act* may be paid out to or on behalf of any corporation which, under conditions satisfactory to the Minister and as a replacement for the vessel disposed of, acquires a vessel before 1974,

Disposition of deposit

- (a) that was constructed in Canada and is registered in Canada or is registered under conditions satisfactory to the Minister in any country or territory to which the British Commonwealth Merchant Shipping Agreement (signed at London on December 10, 1931) applies; and

- (b) in respect of the capital cost of which no allowance has been made to any other corporation under this Act or the *Canadian Vessel Construction Assistance Act*,

or incurs any conversion cost with respect to a vessel owned by the corporation that is registered in Canada or is registered under conditions satisfactory to the Minister in any country or territory to which the said British Commonwealth Merchant Shipping Agreement applies, but the ratio of the amount paid out to the amount of the deposit shall not exceed the ratio of the capital cost to the corporation of the vessel or the conversion cost to the corporation of the vessel, as the case may be, to the proceeds of disposition of the vessel disposed of; and any deposit or part of a deposit not so paid out before 1974 or not paid out pursuant to subsection 16 shall be paid to the Treasurer of Ontario. R.S.O. 1970, c. 91, s. 32 (19).

Idem

(16) Notwithstanding any other provision of this section, where a deposit was made by a corporation under subclause ii of clause *a* of subsection 11 and the proceeds of disposition in respect of which the deposit was made are not used by any corporation before 1974 under conditions satisfactory to the Minister as a replacement for the vessel disposed of,

- (a) to acquire a vessel described in clauses *a* and *b* of subsection 15; or
- (b) to incur any conversion cost with respect to a vessel owned by that corporation that is registered in Canada or is registered under conditions satisfactory to the Minister in any country or territory to which the British Commonwealth Merchant Shipping Agreement applies,

the Minister may refund to the corporation the deposit, or the part thereof not paid out to the corporation under subsection 15, as the case may be, in which case there shall be added, in computing the income of the corporation for the fiscal year of the corporation in which the vessel was disposed of, that proportion of the amount that would have been included in computing the income of the corporation for the year by virtue of this Part had the deposit not been made under subclause ii of clause *a* of subsection 11 that the portion of the proceeds of disposition not so used before 1974 as such a replacement is of the proceeds of disposition; and notwithstanding any other provision of this Act such reassessments of tax, interest or penalties shall be made as are necessary to give effect to this subsection. R.S.O. 1970, c. 91, s. 32 (20).

(17) In this section and any regulations made under ^{Interpre-} clause *a* of subsection 1 of section 24, ^{tation}

- (a) “conversion”, in respect of a vessel, means a conversion or major alteration in Canada by a corporation in accordance with plans approved in writing by the Minister of Industry, Trade and Commerce for purposes of the *Income Tax Act* (Canada) and by the Minister, and “conversion cost” means the cost of a conversion as determined by the Minister; ^{1970-71, c. 63 (Can.)}
- (b) “depreciable property” of a corporation as of any time in a fiscal year means property in respect of which the corporation has been allowed, or is entitled to, a deduction under regulations made under clause *a* of subsection 1 of section 24 in computing income for that or a previous fiscal year;
- (c) “disposition of property” includes any transaction or event entitling a corporation to proceeds of disposition of property;
- (d) “proceeds of disposition” of property includes,
 - (i) the sale price of property that has been sold,
 - (ii) compensation for property unlawfully taken,
 - (iii) compensation for property destroyed and any amount payable under a policy of insurance in respect of loss or destruction of property,
 - (iv) compensation for property taken under statutory authority or the sale price of property sold to a person by whom notice of an intention to take it under statutory authority was given,
 - (v) compensation for property injuriously affected, whether lawfully or unlawfully or under statutory authority or otherwise,
 - (vi) compensation for property damaged and any amount payable under a policy of insurance in respect of damage to property, except to the extent that such compensation or amount, as the case may be, has within a reasonable time after the damage been expended on repairing the damage,

- (vii) an amount by which the liability of a corporation to a mortgagee is reduced as a result of the sale of mortgaged property under a provision of the mortgage, plus any amount received by the corporation out of the proceeds of such sale, and
- (viii) any amount included in computing a corporation's proceeds of disposition of the property by virtue of clause *c* of section 70;
- (e) "total depreciation" allowed to a corporation before any time for property of a prescribed class means the aggregate of all amounts allowed to the corporation in respect of property of that class under regulations made under clause *a* of subsection 1 of section 24 in computing income for fiscal years before that time;
- (f) "undepreciated capital cost" to a corporation of depreciable property of a prescribed class as of any time means the capital cost to the corporation of depreciable property of that class acquired before that time minus the aggregate of,
 - (i) the total depreciation allowed to the corporation for property of that class before that time,
 - (ii) for each disposition before that time of property of the corporation of that class, the least of,
 - (A) the proceeds of disposition of the property,
 - (B) the capital cost to the corporation of the property, and
 - (C) the undepreciated capital cost to the corporation of property of that class immediately before the disposition,
 - (iii) each amount by which the undepreciated capital cost to the corporation of depreciable property of that class as of the end of a previous year was reduced by virtue of subsection 2, and
 - (iv) where the property of that class was acquired by the corporation for the purpose of gaining or producing income from a mine and the cor-

poration so elects in prescribed manner and within a prescribed time in respect of that property, an amount equal to that portion of the income derived from the operation of the mine that is, by virtue of the provisions of the *Corporations Tax Application Rules, 1972* relating to income from the operation of new mines, not included in computing income of the corporation or any other corporation; and

- (g) "vessel" means a vessel as defined in the *Canada Shipping Act*. R.S.O. 1970, c. 91, s. 32 (4). R.S.C. 1970,
c. S-9

18.—(1) Where, as a result of a transaction occurring after 1971, an amount has become payable to a corporation in a fiscal year in respect of a business carried on or formerly carried on by the corporation and the consideration given by the corporation therefor was such that, if any payment had been made by the corporation after 1971 for that consideration, the payment would have been an eligible capital expenditure of the corporation in respect of the business, there shall be included in computing the corporation's income for the year from the business the amount, if any, by which one-half of the amount so payable, which one-half is hereafter in this section referred to as an "eligible capital amount" in respect of the business, exceeds the cumulative eligible capital of the corporation in respect of the business immediately before the amount so payable became payable to the corporation. Sale of
goodwill
and other
"nothings"

(2) Where any amount is, by any provision of this Act, deemed to be a corporation's proceeds of disposition of any property disposed of by the corporation at any time, for the purposes of subsection 1 that amount shall be deemed to have become payable to it at that time. Amount
deemed
payable

(3) Where a corporation has, during a fiscal year but after the latest time at which any amount payable to the corporation, in respect of which the corporation is required by subsection 1 to include an amount in computing its income for the year from a business, became payable to the corporation, made or incurred outlays or expenses that are eligible capital expenditures in respect of the business, notwithstanding subsection 1 and clause *a* of subsection 4, the following rules apply, Subsequent
outlays or
expenses

- (a) if the aggregate of the amounts that would, according to the terms of subsection 1, be included in computing the income of a corporation for the year from the business is equal to or exceeds its

cumulative eligible capital in respect of the business at the end of the year,

- (i) the amount to be included in computing the corporation's income for the year from the business under subsection 1 is that aggregate minus the amount that would otherwise be its cumulative eligible capital in respect of the business at the end of the year, and
 - (ii) the corporation's cumulative eligible capital in respect of the business at the end of the year is nil; and
- (b) if the aggregate of amounts that would, according to the terms of subsection 1, be included in computing the corporation's income for the year from the business is less than its cumulative eligible capital in respect of the business at the end of the year,
- (i) no amounts shall be included in computing the corporation's income for the year from the business under subsection 1, and
 - (ii) the corporation's cumulative eligible capital in respect of the business at the end of the year is the amount thereof otherwise determined minus that aggregate.

Inter-
pretation

(4) In this section,

(a) "cumulative eligible capital" of a corporation at any time in respect of a business means,

- (i) one-half of the aggregate of the eligible capital expenditures in respect of the business made or incurred by the corporation before that time,

minus,

- (ii) the aggregate of,

(A) all amounts each of which is an amount in respect of any fiscal year of the corporation ending before that time, equal to the amount deducted under clause *b* of subsection 1 of section 24 in computing the income of the corporation for that year from the business,

(B) for each eligible capital amount in respect of the business that became payable to the corporation before that time, the lesser of,

1. the eligible capital amount, and
2. the cumulative eligible capital of the corporation in respect of the business immediately before the disposition as a result of which the eligible capital amount became payable, and

(C) all amounts by which the cumulative eligible capital of the corporation in respect of the business at the end of any fiscal year of the corporation ending before that time was reduced by virtue of subsection 3; and

(b) “eligible capital expenditure” of a corporation in respect of a business means the portion of any outlay or expense made or incurred by it, as a result of a transaction occurring after 1971, on account of capital for the purpose of gaining or producing income from the business, other than any such outlay or expense,

(i) in respect of which any amount is or would be, but for any provision of this Act limiting the quantum of any deduction, deductible, otherwise than under clause *b* of subsection 1 of section 24, in computing the income of the corporation from the business, or in respect of which any amount is, by virtue of any provision of this Act other than clause *b* of subsection 1 of section 22, not deductible in computing such income,

(ii) made or incurred for the purpose of gaining or producing income that is exempt income, or

(iii) that is the cost of, or any part of the cost of,

(A) tangible property of the corporation,

(B) intangible property that is depreciable property of the corporation,

(C) property in respect of which any deduction, otherwise than under clause *b* of subsection 1 of section 24, is permitted in computing its income from the business or would be so permitted if its income from the business were sufficient for the purpose, or

(D) an interest in, or right to acquire, any property described in any of sub-clauses A to C,

but, for greater certainty and without restricting the generality of the foregoing, does not include any portion of,

(iv) any amount paid or payable, as the case may be, to any creditor of the corporation as, on account or in lieu of payment of any debt or as or on account of the redemption, cancellation or purchase of any bond or debenture,

(v) any amount paid or payable, as the case may be, to a person as a shareholder of the corporation, or

(vi) any amount that is the cost of, or any part of the cost of,

(A) an interest in a trust,

(B) an interest in a partnership,

(C) a share, bond, debenture, mortgage, hypothec, note, bill or other similar property, or

(D) an interest in, or right to acquire, any property described in any of sub-subclauses A to C. *New.*

Appropriation of property to shareholder

19.—(1) Where in a fiscal year,

(a) a payment has been made by a corporation to a shareholder otherwise than pursuant to a *bona fide* business transaction;

(b) funds or property of a corporation have been appropriated in any manner whatever to, or for the benefit of, a shareholder; or

- (c) a benefit or advantage has been conferred on a shareholder by a corporation,

otherwise than,

- (d) on the reduction of capital, the redemption of shares or the winding-up, discontinuance or reorganization of its business, or otherwise by way of a transaction to which section 78 or 82 of this Act or Part II of the *Income Tax Act* (Canada) applies; 1970-71,
c. 63 (Can.)
- (e) by the payment of a dividend; or
- (f) by conferring on all holders of common shares of the capital stock of the corporation a right to buy additional common shares thereof,

the amount or value thereof shall be included in computing the income of the corporation that is a shareholder therein for the year. R.S.O. 1970, c. 91, s. 20 (1) (a).

(2) Where a corporation has in a fiscal year made a loan ^{Loan to shareholder} to a shareholder, the amount thereof shall be included in computing the income of the shareholder for the year unless,

- (a) the loan was made,
- (i) in the ordinary course of its business and the lending of money was part of its ordinary business,
 - (ii) to an officer or servant of the corporation to enable or assist him to purchase or erect a dwelling house for his own occupation,
 - (iii) to an officer or servant of the corporation to enable or assist him to purchase from the corporation fully paid shares of the corporation to be held by him for his own benefit, or
 - (iv) to an officer or servant of the corporation to enable or assist him to purchase an automobile to be used by him in the performance of the duties of his office or employment,

and *bona fide* arrangements were made at the time the loan was made for repayment thereof within a reasonable time; or

- (b) the loan was repaid within one year from the end of the fiscal year of the corporation in which it was made and it is established, by subsequent events or otherwise, that the repayment was not made as a part of a series of loans and repayments,

and, where the shareholder is a corporation, the amount so included in computing its income for the year shall be deemed to have been received by it as a dividend.

Interest
on income
bonds

(3) An annual or other periodic amount paid by a corporation resident in Canada to another corporation in respect of an income bond or income debenture shall be deemed to have been paid by the paying corporation and received by the receiving corporation as a dividend on the share of the capital stock of the paying corporation unless it is entitled to deduct the amount so paid in computing its income.

Idem

(4) An annual or other periodic amount paid by a corporation not resident in Canada to another corporation in respect of an income bond or income debenture shall be deemed to have been received by the receiving corporation as a dividend unless the amount so paid was, under the laws of the country in which the paying corporation was resident, deductible in computing the amount for the fiscal year on which the corporation was liable to pay income or profits tax imposed by the government of that country.

Application

(5) For greater certainty, subsections 1 and 2 are applicable in computing the income of a shareholder for the purposes of this Part whether or not the paying corporation had a permanent establishment in Ontario. R.S.O. 1970, c. 91, s. 20 (4), *amended*.

Income and
capital
combined

20.—(1) Where a payment under a contract or other arrangement can reasonably be regarded as being in part a payment of interest or other payment of an income nature and in part a payment of a capital nature, the part of the payment that can reasonably be regarded as a payment of interest or other payment of an income nature shall, irrespective of when the contract or arrangement was made or the form or legal effect thereof, be included in computing the recipient's income from property. R.S.O. 1970, c. 91, s. 19 (1).

Obligation
issued at
discount

1970-71,
c. 63 (Can.)

(2) Where, in the case of a bond, debenture, bill, note, mortgage, hypothec or similar obligation issued after December 20, 1960 and before June 18, 1971 by a person exempt from tax under section 149 of the *Income Tax Act* (Canada), a non-resident person not carrying on business in Canada, or a government, municipality or municipal or other public body performing a function of government,

- (a) the obligation was issued for an amount that is less than the principal amount thereof;
- (b) the interest stipulated to be payable on the obligation, expressed in terms of an annual rate on,
 - (i) the principal amount thereof, if no amount is payable on account of the principal amount before the maturity of the obligation, or
 - (ii) the amount outstanding from time to time as or on account of the principal amount thereof, in any other case,

is less than 5 per cent; and

- (c) the yield from the obligation, expressed in terms of an annual rate on the amount for which the obligation was issued, which annual rate shall, if the terms of the obligation or any agreement relating thereto conferred upon the holder thereof a right to demand payment of the principal amount of the obligation or the amount outstanding as or on account of the principal amount thereof, as the case may be, before the maturity of the obligation, be calculated on the basis of the yield that produces the highest annual rate obtainable either on the maturity of the obligation or conditional upon the exercise of any such right, exceeds the annual rate determined under clause *b* by more than one-third thereof,

the amount by which the principal amount of the obligation exceeds the amount for which the obligation was issued shall be included in computing the income of the corporation that is the first owner of the obligation that is a resident of Canada and is not a corporation exempt from tax under section 149 of the *Income Tax Act* (Canada) or a government, for the fiscal year of the owner of the obligation in which it became the owner thereof. R.S.O. 1970, c. 91, s. 19 (2), amended. ^{1970-71, c. 63 (Can.)}

(3) Where, in the case of a bond, debenture, bill, note, ^{Idem} mortgage, hypothec or similar obligation issued after June 18, 1971 by a person exempt from tax under section 149 of the *Income Tax Act* (Canada), a non-resident person not carrying on business in Canada, or a government, municipality or municipal or other public body performing a function of government,

- (a) the obligation was issued for an amount that is less than the principal amount thereof; and

(b) the yield from the obligation, expressed in terms of an annual rate on the amount for which the obligation was issued, which annual rate shall, if the terms of the obligation or any agreement relating thereto conferred upon the holder thereof a right to demand payment of the principal amount of the obligation or the amount outstanding as or on account of the principal amount thereof, as the case may be, before the maturity of the obligation, be calculated on the basis of the yield that produces the highest annual rate obtainable either on the maturity of the obligation or conditional upon the exercise of any such right, exceeds four-thirds of the interest stipulated to be payable on the obligation, expressed in terms of an annual rate on,

(i) the principal amount thereof, if no amount is payable on account of the principal amount before the maturity of the obligation, or

(ii) the amount outstanding from time to time as or on account of the principal amount thereof, in any other case,

the amount by which the principal amount of the obligation exceeds the amount for which the obligation was issued shall be included in computing the income of the corporation that is the first owner of the obligation that is a resident of Canada and is not a corporation exempt from tax under section 149 of the *Income Tax Act* (Canada) or a government, for the fiscal year of the owner of the obligation in which it became the owner thereof. *New.*

1970-71,
c. 63 (Can.)

Application
of subs. 1

(4) Subsection 1 does not apply to any amount received by a corporation in a fiscal year,

(a) as an annuity payment;

(b) as a refund of premiums or contributions paid by the holder of a life annuity contract, as defined by regulation, upon the death of such holder; or

(c) in satisfaction of the rights of the corporation under a life annuity contract, as defined by regulation, that was entered into before June 14, 1963 except to the extent that the amount so received, exceeds the aggregate of,

(i) the value of its rights under the contract on the second anniversary date of the contract to occur after October 22, 1968, and

- (ii) the aggregate of premiums paid by the corporation under the contract after the said second anniversary date. R.S.O. 1970, c. 91, s. 19 (5).

(5) Subsection 1 does not apply in any case where sub-^{Idem}section 2 or 3 applies. R.S.O. 1970, c. 91, s. 19 (4).

21.—(1) Where a corporation resident in Canada has loaned ^{Loan to non-resident person} money to a non-resident person and the loan has remained outstanding for one year or longer without interest at a reasonable rate having been included in computing the lender's income, interest thereon, computed at 5 per cent per annum for the fiscal year or part of the year during which the loan was outstanding, shall, for the purpose of computing the lender's income, be deemed to have been received by the lender on the last day of each fiscal year during all or part of which the loan has been outstanding.

(2) Subsection 1 does not apply if the loan was made to ^{Exception}a subsidiary controlled corporation and it is established that the money that was loaned was used in the subsidiary corporation's business for the purpose of gaining or producing income. R.S.O. 1970, c. 91, s. 30.

Deductions

22.—(1) In computing the income of a corporation from a ^{General limitations}business or property no deduction shall be made in respect of,

- (a) an outlay or expense except to the extent that it was ^{General limitation}made or incurred by the corporation for the purpose of gaining or producing income from the business or property;
- (b) an outlay, loss or replacement of capital, a payment ^{Capital outlay or loss}on account of capital or an allowance in respect of depreciation, obsolescence or depletion except as expressly permitted by this Part;
- (c) an outlay or expense to the extent that it may ^{Limitation re exempt income}reasonably be regarded as having been made or incurred for the purpose of gaining or producing exempt income or in connection with property the income from which would be exempt;
- (d) the annual value of property except rent for prop- ^{Annual value of property}erty leased by the corporation for use in its business;

Reserves,
etc.

- (e) an amount transferred or credited to a reserve, contingent account or sinking fund except as expressly permitted by this Part;

Payments on
discounted
bonds

- (f) an amount paid or payable as or on account of the principal amount of any obligation described in clause *f* of subsection 1 of section 24 except as expressly permitted by that clause;

Payments on
income
bonds

- (g) an amount paid by a corporation as interest or otherwise to holders of its income bonds or income debentures unless the bonds or debentures have been issued or the income provisions thereof have been adopted since 1930,

(i) to afford relief to the debtor from financial difficulties, and

(ii) in place of or as an amendment to bonds or debentures that at the end of 1930 provided unconditionally for a fixed rate of interest;

Limitation re
employer's
contribution
under
supple-
mentary
unemploy-
ment benefit
plan

- (h) an amount paid by a corporation to a trustee under a supplementary unemployment benefit plan except as expressly permitted by section 119;

Limitation re
employer's
contribution
under
deferred
profit
sharing
plan

- (i) an amount paid by a corporation to a trustee under a deferred profit sharing plan except as expressly permitted by section 120;

Limitations
re employer's
contribution
under profit
sharing plan

- (j) an amount paid by a corporation to a trustee under a profit sharing plan that is not,

(i) an employees profit sharing plan,

(ii) a deferred profit sharing plan, or

(iii) a registered pension fund or plan; or

Use of
recreational
facilities
and club
dues

- (k) an outlay or expense made or incurred by the corporation after 1971,

(i) for the use or maintenance of property that is a yacht, a camp, a lodge or a golf course or facility, unless the corporation made or incurred the outlay or expense in the ordinary course of its business of providing the property for hire or reward, or

(ii) as membership fees or dues, whether initiation fees or otherwise, in any club the main purpose of which is to provide dining, recreational or sporting facilities for its members.

- (l) the amount of a management or administration ^{Management fee} fee or charge paid or credited, or deemed to be paid or credited, to a non-resident person to the extent that such amount is subjected to taxation under paragraph *a* of subsection 1 of section 212 of the *Income Tax Act* (Canada); ^{1970-71, c. 63 (Can.)}

- (m) where a corporation has agreed to sell or issue ^{Special Provision} shares of the capital stock of the corporation or of a corporation with which it does not deal at arm's length to an employee of the corporation or of a corporation with which it does not deal at arm's length, the income for a fiscal year of the corporation or of a corporation with which it does not deal at arm's length shall be deemed to be not less than its income for the fiscal year would have been if a benefit had not been conferred on the employee by the sale or issue of the shares to him or to a person in whom his rights under the agreement have become vested. R.S.O. 1970, c. 91, s. 24.

(2) Notwithstanding clause *c* of subsection 1 of section 24, ^{Limitation re certain interest and property taxes on land} in computing the income of the corporation for a fiscal year from a business or property, no deduction shall be made in respect of any amount paid or payable by the corporation in the year and after 1971 as, on account or in lieu of payment of, or in satisfaction of,

- (a) interest on borrowed money used to acquire land, or on an amount payable by the corporation for land; or
- (b) property taxes, not including income or profits taxes or taxes computed by reference to the transfer of property, paid or payable by the corporation in respect of land to a province or a Canadian municipality,

if, having regard to all the circumstances, including the cost to the corporation of the land in relation to its gross revenue, if any, therefrom for that or any previous year, the land cannot reasonably be considered to have been, in that year,

- (c) included in the inventory of a business carried on by the corporation;
- (d) otherwise used in, or held in the course of, carrying on a business carried on by the corporation; or

- (e) held primarily for the purpose of gaining or producing income of the corporation from the land for that year,

except to the extent that the corporation's gross revenue, if any, from the land for that year exceeds the aggregate of all other amounts deducted in computing its income from the land for that year.

Meaning of
"land" in
subs. 2

- (3) In subsection 2, "land" does not include,

- (a) any property that is a building or other depreciable property affixed to land;
- (b) the land subjacent to any property described in clause *a*; or
- (c) such land immediately contiguous to the land described in clause *b* as may reasonably be considered to be used in connection with any property described in clause *a*.

Limitation re
deduction of
interest by
certain
corporations

(4) Notwithstanding any other provision of this Act, in computing the income for a fiscal year of a corporation resident in Canada from a business or property, no deduction shall be made in respect of that proportion of any amount otherwise deductible in computing its income for the year in respect of interest paid or payable by it on outstanding debts to specified non-residents that,

- (a) the amount, if any, by which,
 - (i) the greatest amount that the corporation's outstanding debts to specified non-residents was at any time in the year,

exceeds,

- (ii) three times the aggregate of,

- (A) the corporation's paid-up capital limit within the meaning of subsection 1 of section 83 at the commencement of the year,

- (B) the amount that the corporation's designated surplus would be immediately after the commencement of the year, if control of the corporation, within the meaning of Part VII of

the *Income Tax Act* (Canada), had been <sup>1970-71,
c. 63 (Can.)</sup> acquired by another corporation at that time,

- (C) the corporation's tax-paid undistributed surplus on hand at the commencement of the year,
- (D) the corporation's 1971 capital surplus on hand at the commencement of the year, and
- (E) the corporation's capital dividend account, within the meaning of subsection 1 of section 83 immediately after the commencement of the year,

is of,

- (b) the amount determined under subclause i of clause *a* in respect of the corporation for the year. R.S.O. 1970, c. 91, s. 22.

(5) In subsection 4, "outstanding debts to specified non-residents" of a corporation at any particular time in a fiscal year means the aggregate of amounts each of which is an amount outstanding at that time as or on account of a debt or other obligation to pay an amount, ^{Meaning of certain expressions in subs. 4}

- (a) that was payable by the corporation to a person who was, at any time in the year,
 - (i) a shareholder of the corporation who, either alone or together with persons with whom the shareholder was not dealing at arm's length, owned 25 per cent or more of the issued shares of any class of the corporation and who was,
 - (A) a person not resident in Canada, or
 - (B) a non-resident-owned investment corporation, or
 - (ii) a person described in sub-subclause A or B of subclause i who was not dealing at arm's length with a shareholder described in subclause i, and

- (b) on which any amount in respect of interest paid or payable by the corporation is or would be, but

for subsection 4, deductible in computing the corporation's income for the year.

Loan made
on condition

(6) Where any loan is made by a person, in this subsection referred to as the "first lender", to another person on condition that a loan be made by any person, in this subsection referred to as the "subsequent lender", to a corporation to which the provisions of subsection 1 of section 2 apply, for the purposes of subsections 4 and 5 the lesser of,

- (a) the amount of the loan so made by the first lender to the other person; and
- (b) the amount of the loan so made by the subsequent lender to the corporation,

shall be deemed to be a debt incurred by the corporation to the first lender.

Limitation on
application
of s. 25 where
subs. 4
applicable

(7) Where,

- (a) section 25 is applicable in respect of an amount or a part of an amount specified by a corporation resident in Canada in its election under that section that, but for that section, would have been deductible in computing its income for a fiscal year;
- (b) a portion of the amount or of the part of the amount described in clause *a* may reasonably be considered to be an amount that, but for section 25, would have been deductible in computing the income of the corporation for the year in respect of interest paid or payable by it on outstanding debts to specified non-residents; and
- (c) subsection 4 is or would be, if this Act were read without reference to section 25, applicable in computing the income of the corporation for the year,

notwithstanding section 25, that proportion of the portion described in clause *b* that, but for this subsection, would,

- (d) be added by virtue of section 25 to the capital cost to the corporation of depreciable property acquired by it; or
- (e) be deemed by section 25 to be exploration, prospecting and development expenses incurred by it in the year,

as the case may be, that the amount determined under clause *a* of subsection 4 in respect of the corporation for the year is of the amount determined under clause *b* of subsection 4 in respect of the corporation for the year shall not be so added or be so deemed, as the case may be. *New.*

23. In computing income, no deductions shall be made in respect of an otherwise deductible outlay or expense of a corporation for advertising space in an issue of a non-Canadian newspaper or periodical dated after the 31st day of December, 1965, for an advertisement directed primarily to a market in Canada if such outlay or expense is not deductible in computing its income under Part I of the *Income Tax Act* (Canada) pursuant to section 19 of that Act. R.S.O. 1970, c. 91, s. 24 (3), *amended.* Limitation re advertising expense
1970-71, c. 63 (Can.)

24.—(1) Notwithstanding clauses *a* and *b* of subsection 1 of section 22, in computing a corporation's income for a fiscal year from a business or property, there may be deducted such of the following amounts as are wholly applicable to that source or such part of the following amounts as may reasonably be regarded as applicable thereto, Deductions permitted in computing income from business or property

- (a) such part of the capital cost to the corporation of property, or such amount in respect of the capital cost to the corporation of property, if any, as is allowed by regulation; Capital cost of property
- (b) such amount as the corporation may claim in respect of any business, not exceeding 10 per cent of its cumulative eligible capital in respect of the business at the end of the year; Cumulative eligible capital amount
- (c) an amount paid in the year or payable in respect of the fiscal year, depending upon the method regularly followed by the corporation in computing its income, pursuant to a legal obligation to pay interest on, Interest
 - (i) borrowed money used for the purpose of earning income from a business or property, other than borrowed money used to acquire property the income from which would be exempt or to acquire a life insurance policy,
 - (ii) an amount payable for property acquired for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, other than property the income from which would be exempt or property that is an interest in a life insurance policy, or

(iii) subject to the approval of the Minister, an amount paid to the corporation under,

(A) an *Appropriation Act* (Canada) for the purpose of advancing or sustaining the technological capability of Canadian manufacturing or other industry, or

(B) the *Northern Mineral Exploration Assistance Regulations* made under an *Appropriation Act* (Canada),

or a reasonable amount in respect thereof, whichever is the lesser;

Compound
interest

(d) an amount paid in the fiscal year pursuant to a legal obligation to pay interest on an amount that would be deductible under clause *c* if it were paid in the fiscal year or payable in respect of the fiscal year;

Expense of
issuing
shares or
borrowing
money

(e) an expense incurred in the fiscal year,

(i) in the course of issuing or selling shares of the capital stock of the corporation, or

(ii) in the course of borrowing money used by the corporation for the purpose of earning income from a business or property, other than money used by the corporation for the purpose of acquiring property the income from which would be exempt,

but not including any amount in respect of,

(iii) a commission or bonus paid or payable to a person to whom the shares were issued or sold or from whom the money was borrowed, or for or on account of services rendered by a person as a salesman, agent or dealer in securities in the course of issuing or selling the shares or borrowing the money, or

(iv) an amount paid or payable as or on account of the principal amount of the indebtedness incurred in the course of borrowing the money, or as or on account of interest;

Discount
on certain
obligations

(f) an amount paid in the year in satisfaction of the principal amount of any bond, debenture, bill, note, mortgage, hypothec or similar obligation issued by

the corporation after June 18, 1971 on which interest was stipulated to be payable, to the extent that the amount so paid does not exceed,

- (i) in any case where the obligation was issued for an amount not less than 97 per cent of the principal amount thereof, and the yield from the obligation, expressed in terms of an annual rate on the amount for which the obligation was issued, which annual rate shall, if the terms of the obligation or any agreement relating thereto conferred upon the holder thereof a right to demand payment of the principal amount of the obligation or the amount outstanding as or on account of the principal amount thereof, as the case may be, before the maturity of the obligation, be calculated on the basis of the yield that produces the highest annual rate obtainable either on the maturity of the obligation or conditional upon the exercise of any such right, does not exceed four-thirds of the interest stipulated to be payable on the obligation, expressed in terms of an annual rate on,

- (A) the principal amount thereof, if no amount is payable on account of the principal amount before the maturity of the obligation, or

- (B) the amount outstanding from time to time as or on account of the principal amount thereof, in any other case,

the amount by which the lesser of the principal amount of the obligation and the amount so paid in satisfaction of the principal amount thereof exceeds the amount for which the obligation was issued, and

- (ii) in any other case, one-half of the amount by which the lesser of the principal amount of the obligation and the amount so paid in satisfaction of the principal amount thereof exceeds the amount for which the obligation was issued;

- (g) an amount payable in the year as a fee for services rendered by a person as a registrar of or agent for the transfer of shares of the capital stock of the Share transfer and other fees

corporation or as an agent for the remittance to shareholders of the corporation of dividends declared by it ;

Idem

- (h) an amount payable in the year as a fee to a stock exchange for the listing of shares of the capital stock of the corporation ;

Idem

- (i) an expense incurred in the year in the course of printing and issuing a financial report to shareholders of the corporation or to any other person entitled by law to receive such report ;

Certification
fee paid to
bank

R.S.C. 1970,
c. B-1

- (j) an amount payable by the corporation in the year as a fee to a bank to which the *Bank Act* (Canada) or the *Quebec Savings Banks Act* applies for the certification of a non-interest-bearing post-dated bill drawn by the corporation on the bank and payable not more than 90 days from the date of the certification ;

Sale of
bill

- (k) where a bill described in clause j that was drawn by the corporation has been sold by the corporation in the fiscal year, the amount, if any, by which the principal amount of the bill exceeds the consideration paid by the purchaser to the corporation for the bill so sold ;

Repayment
of loan by
shareholder

- (l) such part of any loan repaid by the corporation in the fiscal year as was by subsection 2 of section 19 required to be included in computing the income of the corporation for a previous year, except to the extent that the amount of the loan was deductible from the corporation's income for the purpose of computing its taxable income for that previous year, if it is established by subsequent events or otherwise that the repayment was not made as part of a series of loans and repayments ;

Combined
income and
capital

- (m) such part of a payment,
- (i) repaying borrowed money used for the purpose of earning income from a business or property, other than borrowed money used to acquire property the income from which would be exempt, or
 - (ii) for property acquired for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from

a business, other than property the income from which would be exempt,

made by the corporation in the fiscal year as is by subsection 1 of section 20 required to be included in computing the recipient's income for a fiscal year;

- (n) a reasonable amount as a reserve for, Reserve for doubtful debts
- (i) doubtful debts that have been included in computing the income of the corporation for that fiscal year or a previous fiscal year, and
 - (ii) doubtful debts arising from loans made in the ordinary course of business by a corporation part of whose ordinary business was the lending of money;
- (o) subject to subsection 7, where amounts described in clause *a* of subsection 1 of section 16 have been included in computing the corporation's income from a business for the fiscal year or a previous fiscal year, a reasonable amount as a reserve in respect of, Reserve in respect of certain goods and services
- (i) goods that it is reasonably anticipated will have to be delivered after the end the year,
 - (ii) services that it is reasonably anticipated will have to be rendered after the end of the year,
 - (iii) periods for which rent or other amounts for the possession or use of land or chattels have been paid in advance, or
 - (iv) repayments under arrangements or understandings of the class described in subclause ii of clause *a* of subsection 1 of section 16 that it is reasonably anticipated will have to be made after the end of the year on the return or resale to the corporation of articles other than bottles;
- (p) where an amount has been included in computing the corporation's income from the business for the fiscal year or for a previous fiscal year in respect of property sold in the course of the business and that amount or a part thereof is not receivable, Reserve for amount not receivable until later year
- (i) where the property sold is property other than land, until a day that is,

(A) more than two years after the day on which the property was sold,

and

(B) after the end of the fiscal year, or

(ii) where the property sold is land, until a day that is after the end of the fiscal year,

a reasonable amount as a reserve in respect of such part of the amount so included in computing the income as may reasonably be regarded as a portion of the profit from the sale;

Reserve for
quadrennial
survey

R.S.C. 1970,
c. S-9

(q) such amount as may be prescribed as a reserve for expenses to be incurred by the corporation by reason of quadrennial or other special surveys required under the *Canada Shipping Act*, or the regulations thereunder, or under the rules of any society or association for the classification and registry of shipping approved by the Minister of Transport for the purposes of the *Canada Shipping Act*;

Bad debts

(r) the aggregate of debts owing to the corporation,

(i) that are established by the corporation to have become bad debts in the fiscal year, and

(ii) that have, except in the case of debts arising from loans made in the ordinary course of business by a corporation part of whose ordinary business was the lending of money, been included in computing the income of the corporation for the fiscal year or a previous fiscal year;

Employer's
contribution
to pension
fund

(s) an amount paid by the corporation in the fiscal year or within 120 days from the end of the fiscal year to or under a registered pension fund or plan in respect of services rendered by employees of the corporation in the fiscal year, subject, however, as follows:

(i) in any case where the amount so paid is the aggregate of amounts each of which is identifiable as a specified amount in respect of an individual employee of the corporation, the amount deductible under this clause in respect of any one such individual employee is the lesser of the amount so specified in respect of that employee and \$2,500, and

- (ii) in any other case, the amount deductible under this clause is the lesser of the amount so paid and an amount determined in prescribed manner, not exceeding, however, \$2,500 multiplied by the number of employees of the corporation in respect of whom the amount so paid by the corporation was paid by it,

plus such amount as may be deducted as a special payment under clause *u*;

- (*t*) where a registered pension fund or plan contains ^{Idem} a provision under which the corporation may provide superannuation or pension benefits for an employee or former employee of the corporation by making a lump sum payment to or under the fund or plan in the fiscal year in which the employee or former employee,

- (i) becomes eligible to retire,
- (ii) retires or otherwise ceases to be employed by the corporation, or
- (iii) reaches an age at which the superannuation or pension benefits so provided for become payable or commence to be payable to him,

an amount paid by the corporation in the fiscal year or within 60 days from the end of the fiscal year pursuant thereto as the lump sum in respect of an employee or former employee who, in the fiscal year, became eligible to retire, retired or otherwise ceased to be employed by the corporation or reached the age referred to in subclause iii, except to the extent that it is deductible under clause *s*;

- (*u*) where the corporation is an employer, the amount of a special payment made by it in the fiscal year on account of an employees' superannuation or pension fund or plan in respect of past services of employees pursuant to a recommendation by a qualified actuary in whose opinion the resources of the fund or plan were required to be augmented by an amount not less than the amount of the special payment to ensure that all the obligations of the fund or plan to the employees may be discharged in full, if the payment was made so that it is irrevocably vested in or for the fund or plan and the payment has been ^{Employer's special contribution}

approved by the Minister, and for greater certainty and without restricting the generality of this clause, it is hereby declared that this clause is applicable where the resources of a fund or plan were required to be augmented by reason of an increase in the superannuation or pension benefits payable out of or under the fund or plan;

- | | |
|--|---|
| Scientific research | (v) such amount in respect of expenditures on scientific research as is permitted by section 39; |
| Patronage dividends | (w) such amounts in respect of payments made by the corporation pursuant to allocations in proportion to patronage as are permitted by section 112; |
| Mining taxes | (x) such amount as is allowed by regulation in respect of taxes on income for the fiscal year from mining operations; |
| Employer's contribution under profit sharing plan | (y) an amount paid by a corporation to a trustee in trust for employees of such corporation or of a corporation with which such corporation does not deal at arm's length, under an employees profit sharing plan as permitted by section 118; |
| Employer's contribution under registered supplementary unemployment benefit plan | (z) an amount paid by the corporation to a trustee under a registered supplementary unemployment benefit plan as permitted by section 119; |
| Employer's contribution under deferred profit sharing plan | (aa) an amount paid by the corporation to a trustee under a deferred profit sharing plan as permitted by subsection 5 of section 120; |
| Cancellation of lease | (bb) an amount that would not otherwise be deductible, paid by the corporation in the fiscal year to a person with whom it was dealing at arm's length for the cancellation of a lease of property of the corporation leased by it to that person; |
| Landscaping of grounds | (cc) an amount paid by the corporation in the fiscal year for the landscaping of grounds around a building or other structure of the corporation that is used by it primarily for the purpose of gaining or producing income therefrom or from a business; |
| One-half fees paid to investment counsel | (dd) an amount equal to one-half of the fee paid by the corporation in the fiscal year to a person for advice as to the advisability of purchasing or selling a specific share or security, if that person's principal business is advising others as to the advisability of purchasing or selling specific shares or securities; |

(ee) an amount paid by the corporation in the fiscal year^{Expenses of representation} as or on account of expenses incurred by it in making any representation relating to a business carried on by it,

(i) to the government of a country, province or state or to a municipal or public body performing a function of government in Canada, or

(ii) to an agency of a government or of a municipal or public body referred to in subclause i that had authority to make rules, regulations or by-laws relating to the business carried on by the corporation,

including any representation for the purpose of obtaining a licence, permit, franchise or trade mark relating to the business carried on by the corporation;

(ff) an amount paid by the corporation in the fiscal year^{Investigation of site} for investigating the suitability of a site for a building or other structure planned by the corporation for use in connection with a business carried on by the corporation; and

(gg) an amount paid by the corporation in the fiscal year^{Utilities service connection} to a person, other than a person with whom the corporation was not dealing at arm's length, for the purpose of making a service connection to its place of business for the supply, by means of wires, pipe or conduits, of electricity, gas, telephone service, water or sewers supplied by such person, to the extent that the amount so paid was not paid,

(i) to acquire property of the corporation, or

(ii) as consideration for the goods or services for the supply of which the service connection was undertaken or made. R.S.O. 1970, c. 91, s. 23, *amended*.

(2) No corporation shall sell, pledge, assign or in any way^{Disposal of security where reserve re sale of property} dispose of any security received by it as payment in whole or in part for any property sold by it, where the corporation has set up a reserve in respect of the sale of the property under this section unless the corporation has provided the Minister, in writing, with the names of the purchaser, pledgee or assignee and with the amount of cash to be received by the corporation for the security and has obtained the written consent of the Minister with respect to such transaction. R.S.O. 1970, c. 91, s. 61 (9).

Borrowed
money

(3) For the purposes of clause *c* of subsection 1, where a corporation has borrowed money in consideration of its promise to pay a larger amount and to pay interest on the larger amount,

- (a) the larger amount shall be deemed to be the amount borrowed; and
- (b) where the amount actually borrowed has been used in whole or in part for the purpose of earning income from a business or property, the proportion of the larger amount that the amount actually so used is of the amount actually borrowed shall be deemed to be the amount so used. R.S.O. 1970, c. 91, s. 23 (6).

Idem

(4) For greater certainty, it is hereby declared that where a corporation has borrowed money,

- (a) to repay money previously borrowed; or
- (b) to pay an amount payable for property described in subclause ii of clause *c* of subsection 1 previously acquired,

the borrowed money shall, for the purposes of section 25 and clause *c* or *m* of subsection 1, be deemed to have been used for the purpose for which the money previously borrowed was used or was deemed by this subsection to have been used, or to acquire the property in respect of which the said amount was so payable, as the case may be. R.S.O. 1970, c. 91, s. 23 (7).

Uncol-
lectable
portion of
proceeds
of dis-
position
of
depreciable
property

(5) Where an amount that is owing to a corporation as or on account of the proceeds of disposition of depreciable property of the corporation of a prescribed class is established by it to have become a bad debt in a fiscal year, there may be deducted in computing the income of the corporation for the fiscal year, the lesser of,

- (a) the amount so owing to the corporation; and
- (b) the amount, if any, by which the capital cost to the corporation of that property exceeds the aggregate of the amounts, if any, realized by it on account of the proceeds of disposition. R.S.O. 1970, c. 91, s. 23 (14).

Sale of
agreement
for sale of
mortgage
included
in proceeds
of disposition

(6) Where depreciable property of a corporation has, in a fiscal year, been disposed of to a person with whom the corporation was dealing at arm's length, and the proceeds of disposition include an agreement for sale of or mortgage or hypothec on land that the corporation has, in a subsequent fiscal year, sold to a person with whom it was dealing at

arm's length, there may be deducted in computing the income of the corporation for the subsequent fiscal year an amount equal to the lesser of,

- (a) the amount, if any, by which the principal amount of the agreement for sale, mortgage or hypothec outstanding at the time of the sale exceeds the consideration paid by the purchaser to the corporation for the agreement for sale, mortgage or hypothec; and
- (b) the amount determined under clause *a* less the amount, if any, by which the proceeds of disposition of the depreciable property exceed the capital cost to the corporation of that property. R.S.O. 1970, c. 91, s. 23 (15).

(7) Where an amount is deductible in computing income for a fiscal year under clause *o* of subsection 1 as a reserve in respect of, ^{Special reserves}

- (a) articles of food or drink that it is reasonably anticipated will have to be delivered after the end of the year; or
- (b) transportation that it is reasonably anticipated will have to be provided after the end of the year,

there shall be substituted for the amount determined thereunder an amount not exceeding the aggregate of amounts included in computing the corporation's income from the business for the year that were received or receivable, depending on the method regularly followed by the corporation in computing its profit, in the year in respect of,

- (c) articles of food or drink not delivered before the end of the year; or
- (d) transportation not provided before the end of the year,

as the case may be. R.S.O. 1970, c. 91, s. 61 (3).

(8) Clause *o* of subsection 1 does not apply to allow a ^{Exception} deduction,

- (a) as a reserve in respect of guarantees, indemnities or warranties;
- (b) in computing the income of a corporation for a fiscal year from a business in any case where the corpora-

tion's income for the fiscal year from that business is computed in accordance with the method authorized by subsection 1 of section 31 ; or

- (c) as a reserve in respect of insurance, except that an insurance corporation shall, in computing its income for a fiscal year from an insurance business, other than a life insurance business, carried on by it, deduct as policy reserves such amounts as are prescribed for the purposes of this clause. R.S.O. 1970, c. 91, s. 61 (4).

No deduction
in respect of
property
in certain
circum-
stances

(9) Clause *p* of subsection 1 does not apply to allow a deduction in computing the income of a corporation for a fiscal year from a business in respect of property sold in the course of the business where the corporation ceases to have a permanent establishment in Canada or becomes exempt from tax under any provision of this Part at any time in the fiscal year or in the immediately following fiscal year. R.S.O. 1970, c. 91, s. 61 (7).

Application
of subs.
1 (*ee*)

(10) In lieu of making any deduction of an amount permitted by clause *ee* of subsection 1 in computing its income for a fiscal year from a business a corporation may, if it so elects in prescribed manner, make a deduction of one-tenth of that amount in computing its income for that fiscal year and a like deduction in computing its income for each of the immediately following fiscal years. R.S.O. 1970, c. 91, s. 23 (17).

Foreign
state
income
taxes

(11) In computing the income of a corporation for a fiscal year from a business carried on by the corporation in a country other than Canada, there may be deducted the amount, if any, of any income or profits taxes paid to the government of a state, province or other political subdivision of that country to the extent that such taxes,

- (a) were deductible under the laws of that country in computing the amount for the year on which the corporation is liable to pay income or profits tax imposed by the government of that country ; and
- (b) may reasonably be regarded as having been paid in respect of the income of the corporation for the fiscal year from that business. *New.*

Accrued
bond
interest

(12) Where, by virtue of an assignment or other transfer of a bond, debenture or similar security, other than an income bond or an income debenture, including for greater certainty an assignment or other transfer after June 18, 1971 of a bill, note, mortgage, hypothec or similar obligation, the transferee

has become entitled to interest in respect of a period commencing before the time of transfer and ending after that time that is not payable until after the time of transfer, an amount equal to that proportion of the interest that the number of days in the portion of the period that preceded the day of transfer is of the number of days in the whole period,

- (a) shall be included in computing the income of the transferor for the fiscal year in which the transfer was made; and
- (b) may be deducted in computing the income of the transferee for a fiscal year in the computation of which there has been included,
 - (i) the full amount of the interest under section 16, or
 - (ii) a portion of the interest under clause *a*. R.S.O. 1970, c. 91, s. 31.

25.—(1) Where in a fiscal year a corporation has acquired property in respect of which the corporation is entitled to a deduction under regulations made under clause *a* of subsection 1 of section 24 in computing its income for that fiscal year, in this section referred to as “depreciable property”, if the corporation so elects in prescribed manner on or before the day on or before which the corporation is required by section 145 to file its return for the fiscal year,

- (a) in computing the corporation’s income for the fiscal year and for such of the three immediately preceding fiscal years as the corporation had, if any, clauses *c*, *d* and *e* of subsection 1 of section 24 do not apply to the amount or to the part of the amount specified by the corporation in its election that, but for this subsection, would have been deductible in computing the corporation’s income, other than exempt income, for the fiscal year and for those immediately preceding fiscal years, if any, by virtue of those clauses in respect of borrowed money used to acquire the depreciable property or the amount payable for the depreciable property acquired by it; and
- (b) the amount or part of the amount, as the case may be, described in clause *a* shall be added to the capital cost to it of the depreciable property so acquired by it. R.S.O. 1970, c. 91, s. 68 (1).

(2) Where in a fiscal year a corporation has used borrowed money for the purpose of exploration, prospecting or develop-

Cost of
borrowed
money

Borrowed
money
used for
exploration,
prospecting
and
development

ment, and the expenses incurred by the corporation in respect of exploration, prospecting and development are deductible in computing its income for the fiscal year by virtue of section 63 or would be so deductible by virtue of that section if the corporation had sufficient income for that fiscal year to permit the deduction, if the corporation so elects in prescribed manner on or before the day on or before which the corporation is required by section 145 to file its return for the fiscal year,

- (a) in computing its income for the fiscal year and for such of the three immediately preceding fiscal years as the corporation had, if any, clauses *c*, *d* and *e* of subsection 1 of section 24 do not apply to the amount or to the part of the amount specified by it in its election that, but for this subsection, would have been deductible in computing the corporation's income, other than exempt income, for the fiscal year and for those immediately preceding fiscal years, if any, by virtue of those clauses in respect of borrowed money used for exploration, prospecting and development; and
- (b) the amount or the part of the amount, as the case may be, described in clause *a* shall be deemed to be exploration, prospecting and development expenses incurred by the corporation in the fiscal year.
R.S.O. 1970, c. 91, s. 68 (2).

Idem

(3) In computing the income of the corporation for a fiscal year, where the corporation,

- (a) in any preceding fiscal year made an election under subsection 1 in respect of borrowed money used to acquire depreciable property or an amount payable for depreciable property acquired by it; and
- (b) in each fiscal year, if any, after that preceding fiscal year and before the fiscal year, made an election under this subsection covering the total amount that, but for this subsection, would have been deductible in computing the corporation's income, other than exempt income, for each such year by virtue of clauses *c*, *d* and *e* of subsection 1 of section 24 in respect of the borrowed money used to acquire the depreciable property or the amount payable for the depreciable property acquired by it,

if it so elects in prescribed manner on or before the day on or before which it is required by section 145 to file its return for the fiscal year, clauses *c*, *d* and *e* of subsection 1

of section 24 do not apply to the amount or to the part of the amount specified by it in its election that, but for this subsection, would have been deductible in computing the corporation's income, other than exempt income, for the fiscal year by virtue of those clauses in respect of the borrowed money used to acquire the depreciable property or the amount payable for the depreciable property acquired by it, and the said amount or part of the amount, as the case may be, shall be added to the capital cost to it of the depreciable property so acquired by it. R.S.O. 1970, c. 91, s. 68 (3).

(4) In computing the income of a corporation for a fiscal ^{Idem} year, where the corporation,

- (a) in any preceding fiscal year made an election under subsection 2 in respect of borrowed money used for the purpose of exploration, prospecting or development; and
- (b) in each fiscal year, if any, after that preceding year and before the fiscal year, made an election under this subsection covering the total amount that, but for this subsection, would have been deductible in computing its income, other than exempt income, for each such year by virtue of clauses *c*, *d* and *e* of subsection 1 of section 24 in respect of the borrowed money used for the exploration, prospecting and development,

if the corporation so elects in prescribed manner on or before the day on or before which it is required by section 145 to file its return for the fiscal year, clauses *c*, *d* and *e* of subsection 1 of section 24 do not apply to the amount or to the part of the amount specified by it in its election that, but for this subsection, would have been deductible in computing the corporation's income, other than exempt income, for the fiscal year by virtue of those clauses in respect of the borrowed money used for the exploration, prospecting and development, and the said amount or part of the amount, as the case may be, shall be deemed to be exploration, prospecting and development expenses incurred by the corporation in that year. R.S.O. 1970, c. 91, s. 68 (4).

(5) Notwithstanding any other provision of this Act, where a corporation has made an election in accordance with the provisions of subsection 1 or 2, such reassessments ^{Reassessments} of tax, interest or penalties shall be made as are necessary to give effect thereto. R.S.O. 1970, c. 91, s. 68 (5).

Ceasing to Carry on Business

Sale of
accounts
receivable

26.—(1) Where a person who has been carrying on a business has, in a fiscal year, sold all or substantially all the property used in carrying on the business, including the debts that have been or will be included in computing his income for that fiscal year or a previous fiscal year and that are still outstanding, and including the debts arising from loans made in the ordinary course of his business if part of his ordinary business was the lending of money and that are still outstanding, to a purchaser who proposes to continue the business which the vendor has been carrying on, if the vendor and the purchaser have executed jointly an election in prescribed form to have this section apply, the following rules are applicable,

- (a) there may be deducted in computing the vendor's income for the fiscal year an amount equal to the difference between the face value of the debts so sold, other than debts in respect of which the vendor has made deductions under clause *r* of subsection 1 of section 24, and the consideration paid by the purchaser to the vendor for the debts so sold;
- (b) an amount equal to the difference described in clause *a* shall be included in computing the purchaser's income for the fiscal year;
- (c) the debts so sold shall be deemed, for the purposes of clauses *n* and *r* of subsection 1 of section 24 to have been included in computing the purchaser's income for the fiscal year or a previous fiscal year but no deduction may be made by the purchaser under clause *r* of subsection 1 of section 24 in respect of a debt in respect of which the vendor has previously made a deduction; and
- (d) each amount deducted by the vendor in computing income for a previous fiscal year under clause *r* of subsection 1 of section 24 in respect of any of the debts so sold shall be deemed, for the purpose of clause *i* of subsection 1 of section 16, to have been so deducted by the purchaser. R.S.O. 1970, c. 91, s. 62 (1).

Statement
by vendor
and
purchaser

(2) An election executed for the purposes of subsection 1 shall contain a statement by the vendor and the purchaser jointly as to the consideration paid for the debts sold by the vendor to the purchaser and that statement shall, as against the Minister, be binding upon the vendor and the purchaser

in so far as it may be relevant in respect of any matter arising under this Act. R.S.O. 1970, c. 91, s. 62 (2), *amended*.

27.—(1) Where, upon or after disposing of or ceasing to carry on a business or a part of a business, a corporation has sold all or any part of the property that was included in the inventory of the business, the property so sold shall, for the purposes of this Part, be deemed to have been sold by the corporation in the course of carrying on the business. R.S.O. 1970, c. 91, s. 63 (1). Sale of inventory

(2) Where a person who has been carrying on a business has sold all or part of the property that was included in the inventory of the business, whether or not he has disposed of or ceased to carry on that business or a part of that business, to a person who has used all or part of the property so sold as inventory of a business carried on or to be carried on by the purchaser, and the amount of the consideration paid by the purchaser is, in part, consideration for the property so sold and, in part, consideration for something else, the following rules are applicable, Agreement as to price paid by vendor and purchaser

(a) such part of the consideration as the vendor and the purchaser have, in writing, agreed to be the price paid for the property so sold shall be deemed, both for the purpose of computing income from the business of the vendor and for the purpose of computing income from the business of the purchaser, to be the price so paid; and

(b) where an agreement as contemplated by clause *a* has not been filed with the Minister within sixty days after notice in writing by the Minister has been forwarded to the vendor and the purchaser that such an agreement is required for the purpose of any assessment of tax under this Act, such part of the consideration paid as is fixed by the Minister shall be deemed to be the price agreed upon by them as the price paid for the property so sold. R.S.O. 1970, c. 91, s. 63 (2).

(3) A reference in this section to property that was included in the inventory of a business shall be deemed to include a reference to property that would have been so included if the income from the business had not been computed in accordance with the method authorized by subsection 1 of section 31 or clause *d* of subsection 1 of section 36. R.S.O. 1970, c. 91, s. 63 (3). Reference to property included in inventory

Ceasing to
carry on
business

28.—(1) Notwithstanding clause *b* of subsection 1 of section 22, where a corporation has ceased to carry on a business, in computing the income of the corporation for its fiscal year in which it so ceased to carry on the business,

- (a) there shall be deducted the amount of its cumulative eligible capital in respect of the business at the time the corporation so ceased to carry on the business;
- (b) no amount is deductible by virtue of clause *b* of subsection 1 of section 24 in respect of the business; and
- (c) notwithstanding clause *a* of subsection 4 of section 18, its cumulative eligible capital in respect of the business immediately after the time the corporation so ceased to carry on the business shall be deemed to be nil.

Where
business
carried on
by controlled
corporation

(2) Where an individual has ceased to carry on a business and thereafter a corporation controlled directly or indirectly in any manner whatever by him, has carried on the business, in computing the cumulative eligible capital in respect of the business of the corporation at any time after the end of the fiscal year in which the individual so ceased to carry on the business, there shall be included the amount of the individual's cumulative eligible capital in respect thereof at the end of that fiscal year. *New.*

Special Cases

Banks

29.—(1) There shall be included in computing the income for a fiscal year of a bank, the amount by which the aggregate of the amounts that, at the end of the fiscal year, are set aside or reserved by way of write-down of the value of assets or appropriation to contingency reserves or contingent accounts for the purpose of meeting losses on loans, bad or doubtful debts, depreciation in the value of assets other than bank premises, or other contingencies, is, in the opinion of the Minister, having regard to all the circumstances, in excess of the reasonable requirements of the bank. R.S.O. 1970, c. 91, s. 21.

Idem

(2) Notwithstanding clauses *a* and *b* of subsection 1 of section 22, there may be deducted in computing the income for a fiscal year of a bank, such amount as is set aside or reserved for the fiscal year either by way of write-down of the value of assets or appropriation to any contingency reserve or contingent account for the purpose of meeting losses on loans, bad or doubtful debts, depreciation in the

value of assets other than bank premises, or other contingencies, and is, in the opinion of the Minister, having regard to all the circumstances, not in excess of the reasonable requirements of the bank. R.S.O. 1970, c. 91, s. 23 (8).

30.—(1) Where a corporation to which the exemptions provided by clause b of subsection 1 of section 122 and the specially reduced tax provided by subsection 1 of section 135 would otherwise apply is prescribed by regulation, such exemptions and specially reduced tax do not apply. R.S.O. 1970, c. 91, s. 59(1). Crown corporations

(2) Where land has been transferred to a corporation prescribed in the regulations for the purpose of disposition, the acquisition of the property by the corporation and any disposition thereof shall be deemed not to have been in the course of the business carried on by the corporation. R.S.O. 1970, c. 91, s. 59 (4). Transfers of land for disposition

31.—(1) For the purpose of computing the income of a corporation for a fiscal year from a farming business, the income from the business for that fiscal year may, if the corporation so elects under subsection 1 of section 28 of the *Income Tax Act* (Canada), be computed in accordance with a method, hereinafter in this section referred to as the "cash" method, whereby the income therefrom for that fiscal year shall be deemed to be an amount equal to, Farming business

(a) the aggregate of all amounts that,

- (i) were received in the year, or are deemed by this Act to have been received in the year, in the course of carrying on the business, and
- (ii) were in payment of or on account of an amount that would, if the income from the business were not computed in accordance with the cash method, be included in computing income therefrom for that or any other year,

minus,

(b) the aggregate of all amounts that,

- (i) were paid in the year, or are deemed by this Act to have been paid in the year, in the course of carrying on the business, and
- (ii) were in payment of or on account of an amount that would, if the income from the business were not computed in accordance with the

cash method, be deductible in computing income therefrom for that or any other year,

any minus and deductions for the year permitted by clauses *a* and *b* of subsection 1 of section 24. R.S.O. 1970, c. 91, s. 64 (1) (*a*).

Idem

(2) Subsection 1 does not apply for the purpose of computing the income of a corporation for a fiscal year from a farming business carried on by it jointly with one or more other persons, unless each of the other persons by whom the business is jointly carried on has elected to have his income from the business for that year computed in accordance with the method authorized by that subsection. R.S.O. 1970, c. 91, s. 64 (2).

Concurrence of Minister

(3) Where a corporation has filed a return under Part V for a fiscal year wherein its income for that fiscal year from a farming business has been computed in accordance with the method authorized by subsection 1, income from the business for a subsequent fiscal year shall, subject to the other provisions of this Part, be computed in accordance with that method unless the corporation, with the concurrence of the Minister and upon such terms and conditions as are specified by the Minister, adopts some other method. R.S.O. 1970, c. 91, s. 64 (3).

Change in residence

(4) Where a corporation that, at a time when it was a resident of Canada, carried on a business the income from which was computed in accordance with the method authorized by subsection 1 has, upon or after disposing of or ceasing to carry on the business or a part of the business, ceased to be a resident of Canada in a fiscal year, an amount equal to the value, at the time it ceased to be a resident of Canada, of,

- (a) such part of the property that would have been included in the inventory of the business or the part of the business if the income from the business had not been computed in accordance with the method authorized by subsection 1 as remained the property of the corporation at the time it ceased to be a resident of Canada; and
- (b) such part of amounts outstanding at the time the corporation ceased to be a resident of Canada as or on account of debts owing to the corporation that arose in the course of carrying on the business as would have been included in computing its income for the fiscal year if the amounts had been received by it in the year at a time when it was a resident of Canada,

shall be included in computing its income for the fiscal year.
R.S.O. 1970, c. 91, s. 64(4), *amended*.

(5) There shall be included in computing the income of a corporation for a fiscal year such part of an amount received by it in the year, upon or after disposing of or ceasing to carry on a business or a part of a business, for, on account or in lieu of payment of, or in satisfaction of debts owing to the corporation that arose in the course of carrying on the business as would have been included in computing the income of the corporation for the fiscal year had the amount so received been received by it in the course of carrying on the business. R.S.O. 1970, c. 91, s. 64 (5). ^{Accounts receivable}

32. Notwithstanding clauses *a* and *b* of subsection 1 of section 22, there may be deducted in computing a corporation's income for a fiscal year from a farming business any amount paid by it in the fiscal year for clearing land, levelling land or laying tile drainage for the purpose of carrying on the farming business. R.S.O. 1970, c. 91, s. 23 (16). ^{Clearing land, levelling land and laying tile drainage}

33.—(1) Where a corporation's chief source of income for a fiscal year is neither farming nor a combination of farming and some other source of income, for the purposes of sections 12 and 99 its loss, if any, for the fiscal year from all farming businesses carried on by it shall be deemed to be the lesser of, ^{Loss from farming where chief source of income not farming}

(a) the amount by which the aggregate of its losses for the fiscal year otherwise determined from all farming businesses carried on by it exceeds the aggregate of its incomes for the fiscal year from all such businesses; and

(b) \$2,500 plus the lesser of,

(i) one-half of the amount by which the amount determined under clause *a* exceeds \$2,500, and

(ii) \$2,500,

and for the purposes of this Act the amount, if any, by which the amount determined under clause *a* exceeds the amount determined under clause *b* is the corporation's "restricted farm loss" for the fiscal year. R.S.O. 1970, c. 91, s. 25 (1).

(2) For the purpose of this section, the Minister may determine that a corporation's chief source of income for a fiscal year is neither farming nor a combination of farming and some other source of income. R.S.O. 1970, c. 91, s. 25 (2). ^{Determination by Minister}

Insurance
agents
and brokers

34.—(1) Clause *o* of subsection 1 of section 24 does not apply to allow a deduction to an insurance agent or broker in respect of unearned commissions but a corporation may, in computing its income from a business as an insurance agent or broker for a fiscal year, deduct as a reserve in respect of unearned commissions an amount equal to the proportion of an amount that has been included in computing its income for the fiscal year or a previous fiscal year as a commission in respect of an insurance contract, other than a life insurance contract, that,

- (a) the number of days in that portion of the period provided for in the insurance contract that is after the end of the fiscal year,

is of,

- (b) the whole of that period. R.S.O. 1970, c. 91, s. 61 (5).

Reserve
to be
included

(2) There shall be included as income of a corporation for a fiscal year from a business as an insurance agent or broker, the amount deducted under subsection 1 in computing its income therefrom for the immediately preceding fiscal year. *New.*

Lending
of money
on security

35.—(1) In computing the income for a fiscal year of a corporation whose business includes the lending of money on the security of a mortgage, hypothec or agreement of sale of real property, there may be deducted as a reserve, in lieu of any deduction under clause *n* of subsection 1 of section 24, such amount as the corporation may claim not exceeding the lesser of,

- (a) $1\frac{1}{2}$ per cent of the aggregate of,

- (i) each amount outstanding at the end of the fiscal year as or on account of the principal amount of loans made by the corporation on the security of a mortgage, hypothec or agreement of sale of real property, or as or on account of the principal amount of any such mortgage, hypothec or agreement of sale purchased by it,
- (ii) each amount due and unpaid at the end of the fiscal year as or on account of interest payable to the corporation under a mortgage, hypothec or agreement of sale of real property, and

- (iii) each amount that has been taken into account in computing the income of the corporation for the fiscal year as or on account of the value of real property of the corporation that was included in the inventory of the corporation at the end of the fiscal year and that was acquired, by foreclosure or otherwise, after default made under a mortgage, hypothec or agreement of sale of real property, otherwise than as or on account of the value of real property in respect of which any amount for the fiscal year has been included under subclause i or ii; and

- (b) the amount, if any, deducted under this subsection as a reserve in computing the corporation's income for the immediately preceding fiscal year plus one-third of the amount determined under clause a,

but no deduction may be made under this subsection as a reserve in respect of loans made on the security of a mortgage or hypothec under the *National Housing Act* (Canada) or any of the Housing Acts as defined in section 2 of the *Central Mortgage and Housing Corporation Act* (Canada). R.S.O. 1970, c. 91, s. 65 (a). R.S.C. 1970,
cc. N-10, C-16

(2) There shall be included as income of a corporation for a fiscal year from a business described in subsection 1, the amount deducted under that subsection as a reserve in computing its income therefrom for the immediately preceding fiscal year. R.S.O. 1970, c. 91, s. 65 (b). Reserve
to be
included

36.—(1) In computing the income of a corporation for a fiscal year from a business that is a profession, the following rules apply, Professional
business

- (a) clause b of subsection 1 of section 16 and clause o of subsection 1 of section 24 are not applicable;
- (b) every amount that becomes receivable by it in the fiscal year in respect of property sold or services rendered in the course of the business shall be included;
- (c) for the purposes of clause b, an amount shall be deemed to have become receivable in respect of services rendered in the course of the business on the day that is the earliest of,
 - (i) the day upon which the account in respect of the services was rendered,

(ii) the day upon which the account in respect of those services would have been rendered had there been no undue delay in rendering the account in respect of the services, and

(iii) the day upon which the corporation was paid for the services; and

(d) where the corporation so elects in its return of income under Part I of the *Income Tax Act* (Canada) for the fiscal year, no amount shall be included in respect of work in progress at the end of the fiscal year, except as otherwise provided by this section.

1970-71,
c. 63 (Can.)

Application
of subs. 1 (d)
where
election
made

(2) Where a corporation has elected that clause *d* of subsection 1 be applicable in computing its income for a fiscal year from a business that is a profession, that clause shall apply in computing its income from the business for all subsequent fiscal years unless the corporation, with the concurrence of the Minister and upon such terms and conditions as are specified by the Minister, revokes its election to have that clause apply. *New.*

Prospectors
and
grub-
stakers

37.—(1) Where a share of the capital stock of a corporation,

(a) is received in a fiscal year,

(i) by a person who has, either under an arrangement with a prospector made before the prospecting, exploration or development work or as an employer of a prospector, advanced money for, or paid part or all of, the expenses of prospecting or exploring for minerals or of developing a property for minerals, and

(ii) as consideration for the disposition by the person referred to in subclause i to the corporation of a mining property or interest therein acquired under the arrangement under which the corporation made the advance or paid the expenses, or if the prospector was its employee, acquired by it through the employee's efforts,

the following rules apply,

(b) notwithstanding any other provision of this Act, no amount in respect of the receipt of the share shall be included in computing the income for the fiscal year of the person;

- (c) notwithstanding Subdivision B, in computing the cost to the person of the share, no amount shall be included in respect of the mining property or interest therein, as the case may be; and
 - (d) notwithstanding section 63, in computing the cost to the corporation of the mining property or the interest therein, as the case may be, no amount shall be included in respect of the share. R.S.O. 1970, c. 91, s. 57 (2).
- (2) In this section,
- (a) "mining property" means a right to prospect, explore or mine for minerals or a property the principal value of which depends upon its mineral content; and
 - (b) "prospector" means an individual who prospects or explores for minerals or develops a property for minerals on behalf of himself, on behalf of himself and others or as an employee. R.S.O. 1970, c. 91, s. 57 (1).

Inter-pretation

38. Where any amount in respect of an expenditure incurred by a corporation on or in respect of the repair, replacement, alteration or renovation of depreciable property of the corporation of a class prescribed by the regulations made for the purposes of this section is, under a uniform classification and system of accounts and returns prescribed by the Canadian Transport Commission pursuant to the *Railway Act* (Canada), required to be entered in the books of the corporation otherwise than as an expense,

Railway companies

R.S.C. 1970, c. R-2

- (a) no deduction may be made in respect of that expenditure in computing the income of the corporation for the fiscal year; and
- (b) for the purposes of section 17 and regulations made under clause *a* of subsection 1 of section 24, the corporation shall be deemed to have acquired, at the time the expenditure was incurred, depreciable property of that class at a capital cost equal to that amount. R.S.O. 1970, c. 91, s. 60 (3).

39.—(1) There may be deducted in computing the income for a fiscal year of a corporation that had a permanent establishment in Canada and made expenditures in respect of scientific research in the fiscal year the amount by which the aggregate of,

Scientific research

- (a) all expenditures of a current nature made in Canada in the fiscal year,
 - (i) on scientific research related to the business and directly undertaken by or on behalf of the corporation,
 - (ii) by payments to an approved association that undertakes scientific research related to the class of business of the corporation,
 - (iii) by payments to an approved university, college, research institute or other similar institution to be used for scientific research related to the class of business of the corporation,
 - (iv) by payments to a corporation resident in Canada and exempt from tax under clause g of subsection 1 of section 122, or
 - (v) by payments to a corporation resident in Canada for scientific research related to the business of the corporation;
- (b) such amount as may be claimed by the corporation not exceeding the lesser of,
 - (i) the expenditures of a capital nature made in Canada, by acquiring property other than land, in the fiscal year and any previous fiscal year ending after 1958 on scientific research relating to the business and directly undertaken by or on behalf of the corporation, and
 - (ii) the undepreciated capital cost to the corporation of the property so acquired as at the end of the fiscal year, before making any deduction under this clause in computing the income of the corporation for the fiscal year; and
- (c) all expenditures in the fiscal year by way of repayment of amounts paid to the corporation under an *Appropriation Act* (Canada) and on terms and conditions approved by the Minister for the purpose of advancing or sustaining the technological capability of Canadian manufacturing or other industry,

exceeds the aggregate of amounts paid to the corporation in the fiscal year under an *Appropriation Act* (Canada) and on

terms and conditions described in clause *c*. R.S.O. 1970, c. 91, s. 46 (1).

(2) There may be deducted in computing the income for a ^{Research outside Canada} fiscal year of a corporation that carried on business in Canada and made expenditures in the fiscal year in respect of scientific research carried on outside Canada, all such expenditures of a current nature made in the fiscal year,

- (a) on scientific research related to the business and directly undertaken by or on behalf of the corporation; or
- (b) by payments to an approved association, university, college, research institute or other similar institution to be used for scientific research related to the class of business of the corporation. R.S.O. 1970, c. 91, s. 46 (2).

(3) Where any particular activity constitutes scientific ^{Idem} research for the purposes of section 37 of the *Income Tax Act* ^{1970-71, c. 63 (Can.)} (Canada), such particular activity shall constitute scientific research for the purposes of this Act. R.S.O. 1970, c. 91, s. 46 (3).

(4) No deduction may be made under this section in respect ^{Deductions} of an expenditure made to acquire rights in, or arising out of, scientific research. R.S.O. 1970, c. 91, s. 46 (4).

(5) Where in respect of an expenditure on scientific research ^{Idem} made by a corporation in a fiscal year an amount is deductible under this section and under section 98 no deduction may be made in respect of the expenditure under section 98 in computing the taxable income of the corporation for any fiscal year. R.S.O. 1970, c. 91, s. 46 (5).

(6) An amount claimed under clause *b* of subsection 1 in ^{Expenditures of a capital nature} computing a deduction under that subsection shall, for the purpose of section 17, be deemed to be an amount allowed to the corporation in respect of the property acquired by the expenditures under regulations made under clause *a* of subsection 1 of section 24, and for that purpose the property acquired by the expenditures shall be deemed to be of a separate prescribed class. R.S.O. 1970, c. 91, s. 46 (7).

(7) In this section,

^{Interpretation}

- (a) "approved" means approved by the Minister;
- (b) "scientific research" has the meaning given to that expression by regulation;

- (c) references to expenditures on or in respect of scientific research,
 - (i) where the references occur in subsection 2, include only expenditures incurred for and wholly attributable to the prosecution of scientific research, and
 - (ii) where the references occur other than in subsection 2, include only expenditures incurred for and wholly attributable to the prosecution or the provision of facilities for the prosecution, of scientific research in Canada; and
- (d) references to scientific research relating to a business or class of business include any scientific research that may lead to or facilitate an extension of that business or, as the case may be, business of that class. R.S.O. 1970, c. 91, s. 46 (6).

SUBDIVISION B—TAXABLE CAPITAL GAINS
AND ALLOWABLE CAPITAL LOSSES

Meaning of
taxable
capital gain
and allowable
capital
loss

40. For the purposes of this Act,

- (a) a corporation's taxable capital gain for a fiscal year from the disposition of any property is one-half of its capital gain for the fiscal year from the disposition of that property; and
- (b) a corporation's allowable capital loss for a fiscal year from the disposition of any property is one-half of its capital loss for the fiscal year from the disposition of that property. *New.*

Meaning of
capital
gain and
capital
loss

41.—(1) For the purposes of this Act,

- (a) a corporation's capital gain for a fiscal year from the disposition of any property is the corporation's gain for the year determined under this Subdivision (to the extent of the amount thereof that would not, if section 12 were read without reference to the expression "other than a taxable capital gain from the disposition of a property" in clause *a* thereof and without reference to clause *b* thereof, be included in computing the corporation's income for the fiscal year or any other fiscal year) from the disposition of any property of the corporation other than,

- (i) eligible capital property,

- (ii) property, any amount receivable by the corporation for the disposition of which is required to be included in computing the corporation's income for the fiscal year by virtue of section 59, or
 - (iii) a life insurance policy within the meaning of section 138 of the *Income Tax Act* (Canada), ^{1970-71, c. 63 (Can.)} except an annuity contract; and
- (b) a corporation's capital loss for a fiscal year from the disposition of any property is the corporation's loss for the year determined under this Subdivision (to the extent of the amount thereof that would not, if section 12 were read in the manner described in clause *a* of this subsection, be deductible in computing the corporation's income for the fiscal year or any other fiscal year) from the disposition of any property of the corporation other than,
- (i) depreciable property, or
 - (ii) property described in subclause i, ii or iii of clause *a*.

(2) Notwithstanding subsection 1, where, by virtue of any fluctuation after 1971 in the value of currency or currencies of one or more countries other than Canada relative to Canadian currency, a corporation has made a gain or sustained a loss in a fiscal year, the following rules apply,

- (a) the amount, if any, by which,
 - (i) the aggregate of all such gains made by the corporation in the fiscal year (to the extent of the amount thereof that would not if section 12 were read in the manner described in clause *a* of subsection 1 of this section, be included in computing the corporation's income for the fiscal year or any other fiscal year),

exceeds

- (ii) the aggregate of all such losses sustained by the corporation in the fiscal year, to the extent of the amounts thereof that would not, if section 12 were read in the manner described in clause *a* of subsection 1 of this section be deductible in computing the corporation's income for the fiscal year or any other fiscal year,

shall be deemed to be a capital gain of the corporation for the fiscal year from the disposition of currency of a country other than Canada, the amount of which capital gain is the amount determined under this clause; and

(b) the amount, if any, by which,

(i) the aggregate determined under subclause ii of clause *a*,

exceeds

(ii) the aggregate determined under subclause i of clause *a*,

shall be deemed to be a capital loss of the corporation for the year from the disposition of currency of a country other than Canada, the amount of which capital loss is the amount determined under this clause.

Gain on
purchase
of bonds
by issuer

(3) Where a corporation has issued any bond, debenture or similar obligation and has at any subsequent time in a fiscal year and after 1971 purchased the obligation in the open market, in the manner in which any such obligation would normally be purchased in the open market by any member of the public,

(a) the amount, if any, by which the amount for which the obligation was issued by the corporation exceeds the purchase price paid or agreed to be paid by the corporation for the obligation shall be deemed to be a capital gain of the corporation for the fiscal year from the disposition of a capital property; and

(b) the amount, if any, by which the purchase price paid or agreed to be paid by the corporation for the obligation exceeds the greater of the principal amount thereof and the amount for which it was issued by the corporation shall be deemed to be a capital loss of the corporation for the fiscal year from the disposition of a capital property,

to the extent of the amount of the capital gain or capital loss, as the case may be, that would not, if section 12 were read in the manner described in clause *a* of subsection 1 of this section, be included or be deductible, as the case may be, in computing the corporation's income for the fiscal year or any other fiscal year. *New.*

42.—(1) Except as otherwise expressly provided in this Part, General rules

- (a) a corporation's gain for a fiscal year from the disposition of any property is the amount, if any, by which,
 - (i) if the property was disposed of in the fiscal year, the amount, if any, by which the corporation's proceeds of disposition exceed the aggregate of the adjusted cost base to it of the property immediately before the disposition and any outlays and expenses to the extent that they were made or incurred by the corporation for the purpose of making the disposition, or
 - (ii) if the property was disposed of before the fiscal year, the amount, if any, claimed by the corporation under subclause iii in computing the corporation's gain for the immediately preceding fiscal year from the disposition of the property,

exceeds

- (iii) such amount as the corporation may claim, not exceeding a reasonable amount as a reserve in respect of such of the proceeds of disposition of the property that are not due to the corporation until after the end of the fiscal year as may reasonably be regarded as a portion of the amount determined under subclause i in respect of the property; and
- (b) a corporation's loss for a fiscal year from the disposition of any property is,
 - (i) if the property was disposed of in the fiscal year, the amount, if any, by which the aggregate of the adjusted cost base to the corporation of the property immediately before the disposition and any outlays and expenses to the extent that they were made or incurred by the corporation for the purpose of making the disposition, exceeds its proceeds of disposition of the property, and
 - (ii) in any other case, nil.

(2) Notwithstanding subsection 1,

Limitations

- (a) subclause iii of clause *a* of subsection 1 does not apply to permit a corporation to claim any amount thereunder in computing a gain for a fiscal year if the corporation was, at any time in the fiscal year or the immediately following fiscal year, not resident in Canada;
- (b) a corporation's loss for a fiscal year from the disposition of a bond or debenture is its loss therefrom for the fiscal year otherwise determined, less the aggregate of such amounts received by it as, on account or in lieu of payment of, or in satisfaction of interest thereon as were, by virtue of clause *e* of subsection 1 of section 75, not included in computing its income;
- (c) a corporation's loss otherwise determined from the disposition of any property disposed of by it to,
 - (i) a person by whom it was controlled, or
 - (ii) a corporation that was controlled by a person described in subclause i,
 is nil;
- (d) a corporation's gain or loss from the disposition of,
 - (i) a chance to win a prize, or
 - (ii) a right to receive an amount as a prize,
 in connection with a lottery scheme is nil; and
- (e) a corporation's loss, if any, from the disposition of a property, to the extent that it is,
 - (i) a superficial loss,
 - (ii) a loss from the disposition of a debt or other right to receive an amount, unless the debt or right, as the case may be, was acquired by the corporation for the purpose of gaining or producing income from a business or property, other than exempt income, or as consideration for the disposition of capital property to a person with whom the corporation was dealing at arm's length, or

- (iii) a loss from the disposition of any personal-use property of the corporation other than listed personal property,

is nil.

- (3) Where,

- (a) the aggregate of all amounts required by subsection 2 of section 55, except clause *b* thereof, to be deducted in computing the adjusted cost base to a corporation of any property at any time in a fiscal year,

Deemed gain where amounts to be deducted from adjusted cost base exceed cost plus amounts to be added to adjusted cost base

exceeds

- (b) the aggregate of the cost to it of the property and all amounts required by subsection 1 of section 55 to be included in computing the adjusted cost base to a corporation of that property at that time,

the amount of the excess shall be deemed to be a gain of the corporation for the fiscal year from a disposition at that time of that property. *New.*

43.—(1) For the purposes of this Part, a corporation's taxable net gain for a fiscal year from dispositions of listed personal property is one-half of the amount determined under subsection 2 to be its net gain for the fiscal year from dispositions of such property.

Meaning of taxable net gain from dispositions of listed personal property

(2) A corporation's net gain for a fiscal year from dispositions of listed personal property is an amount determined as follows,

Determination of net gain

- (a) determine the amount, if any, by which the aggregate of its gains for the fiscal year from dispositions of listed personal property exceeds the aggregate of its losses for the fiscal year from dispositions of listed personal property; and
- (b) deduct from the amount determined under clause *a* its listed-personal-property losses for the five fiscal years immediately preceding and the fiscal year immediately following the fiscal year, except that for the purposes of this clause,
 - (i) an amount in respect of a listed-personal-property loss is only deductible to the extent that it exceeds the aggregate of amounts previously deductible in respect of that loss under this clause,

- (ii) no amount is deductible in respect of the listed-personal-property loss of any fiscal year until the deductible listed-personal-property losses for previous fiscal years have been deducted, and
- (iii) no amount is deductible in respect of listed-personal-property losses from the amount determined under clause *a* for a fiscal year except to the extent of the amount so determined for the fiscal year,

and the remainder determined under clause *b* is the corporation's net gain for the fiscal year from dispositions of listed personal property.

"Listed-personal-property-loss" defined

(3) In this section, "listed-personal-property loss" of a corporation for a fiscal year means the amount, if any, by which the aggregate of its losses for the fiscal year from dispositions of listed personal property exceeds the aggregate of its gains for the fiscal year from dispositions of listed personal property. *New.*

Dispositions subject to warranty

44. In computing a corporation's proceeds of disposition of any property for the purposes of this Subdivision, there shall be included any amount received or receivable by the corporation as consideration for any warranty, covenant or other conditional or contingent obligation incurred by the corporation in respect of the disposition, and in computing the corporation's income for the fiscal year in which the property was disposed of or for any of the six immediately following fiscal years, any outlay or expense made or incurred by the corporation in any such fiscal year pursuant to or by virtue of the obligation shall, if the obligation was a legal obligation incurred by the corporation, be deemed to be a loss of the corporation for that fiscal year from the disposition of a capital property. *New.*

Part dispositions

45. For the purpose of computing a corporation's gain for a fiscal year from the disposition of a part of a property, the adjusted cost base to the corporation, immediately before the disposition, of that part is such portion of the adjusted cost base to the corporation at that time of the whole property as may reasonably be regarded as attributable to that part. *New.*

Deferral of gain on involuntary dispositions

46. Where in a fiscal year a corporation has received proceeds of disposition described in subclause iii or iv of clause *i* of section 56 of any property, in this section referred to as its "former property", and, before the end of the following fiscal year, has expended an amount to acquire other property as a replacement for its former property, notwithstanding subsection 1 of section 42,

- (a) the gain, if any, from the disposition of its former property is the lesser of,
 - (i) the gain therefrom otherwise determined, and
 - (ii) the amount, if any, by which the proceeds of disposition of its former property exceed the cost to the corporation, otherwise determined, of the other property; and
- (b) the cost to the corporation of the other property shall be deemed to be the cost to the corporation of the other property otherwise determined, minus the amount, if any, by which the gain described in subclause i of clause *a* exceeds the excess, if any, determined under subclause ii of clause *a*. *New*.

47.—(1) For the purposes of this Subdivision the following rules apply, Property with more than one use

- (a) where a corporation,
 - (i) having acquired property for some other purpose, has commenced at a later time to use it for the purpose of gaining or producing income therefrom, or for the purpose of gaining or producing income from a business, or
 - (ii) having acquired property for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, has commenced at a later time to use it for some other purpose,

the corporation shall be deemed to have,

- (iii) disposed of it at that later time for proceeds equal to its fair market value at that later time, and
 - (iv) immediately thereafter reacquired it at a cost equal to that fair market value;
- (b) where property has, since it was acquired by a corporation, been regularly used in part for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business and in part for some other purpose, the corporation shall be deemed to have acquired, for that other purpose, the proportion of the property that the use

regularly made of the property for that other purpose is of the whole use regularly made of the property at a cost to the corporation equal to the same proportion of the cost to it of the whole property; and, if the property has, in such a case, been disposed of, the proceeds of disposition of the proportion of the property deemed to have been acquired for that other purpose shall be deemed to be the same proportion of the proceeds of disposition of the whole property; and

(c) where, at any time after a corporation has acquired property, there has been a change in the relation between the use regularly made by the corporation of the property for gaining or producing income therefrom or income from a business and the use regularly made of the property for other purposes,

(i) if the use regularly made by it of the property for those other purposes has increased, it shall be deemed to have,

(A) disposed of property at that time for proceeds equal to the proportion of the fair market value of the property at that time that the amount of the increase in the use regularly made by the corporation of the property for those other purposes is of the whole use regularly made of the property, and

(B) immediately thereafter reacquired the property so disposed of at a cost equal to the proceeds referred to in subclause A, and

(ii) if the use regularly made by the corporation of the property for those other purposes has decreased, it shall be deemed to have disposed of property at that time and the proceeds of disposition shall be deemed to be an amount equal to the proportion of the fair market value of the property at that time that the amount of the decrease in use regularly made by it of the property for those other purposes is of the whole use regularly made of the property.

Election
where
change
in use

(2) For the purposes of this Subdivision and section 17, where clause *a* of subsection 1 and paragraph 2 of subsection 6 of

section 17 would otherwise be applicable in respect of any property of a corporation for a fiscal year and the corporation so elects as provided under subsection 2 of section 45 of the *Income Tax Act* (Canada), the corporation shall be deemed not to have commenced to use the property for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business except that if the corporation rescinds such election in a subsequent fiscal year in respect of the property, it shall be deemed to have commenced so to use the property on the first day of that subsequent fiscal year. *New.*

48.—(1) Where a corporation has disposed of any personal-use property of the corporation, for the purposes of this Subdivision, Personal-use property

- (a) the adjusted cost base to the corporation of the property immediately before the disposition shall be deemed to be the greater of \$1,000 and the amount otherwise determined to be its adjusted cost base to it at that time; and
- (b) its proceeds of disposition of the property shall be deemed to be the greater of \$1,000 and its proceeds of disposition of the property otherwise determined.

(2) Where a corporation has disposed of part of a personal-use property owned by it and has retained another part of the property, for the purposes of this Subdivision, Where part only of property disposed of

- (a) the adjusted cost base to the corporation immediately before the disposition, of the part so disposed of shall be deemed to be the greater of,
 - (i) the adjusted cost base to it at that time of that part otherwise determined, and
 - (ii) that proportion of \$1,000 that the amount determined under subclause i is of the adjusted cost base to it at that time of the whole property; and
- (b) the proceeds of disposition of the part so disposed of shall be deemed to be the greater of,
 - (i) the proceeds of disposition thereof otherwise determined, and
 - (ii) the amount determined under subclause ii of clause a.

Properties
ordinarily
disposed
of as a set

(3) For the purposes of this Subdivision, where a number of personal-use properties of a corporation that would, if the properties were disposed of, ordinarily be disposed of in one disposition as a set,

- (a) have been disposed of by more than one disposition so that all of the properties have been acquired by one person or by a group of persons not dealing with each other at arm's length; and
- (b) had, immediately before the first disposition referred to in clause *a*, an aggregate fair market value greater than \$1,000,

the properties shall be deemed to be a single personal-use property and each such disposition shall be deemed to be a disposition of a part of that property.

Decrease in
value of
personal-
use property
of corpora-
tion, etc.

(4) Where it may reasonably be regarded that, by reason of a decrease in the fair market value of any personal-use property of a corporation, partnership or trust,

- (a) a corporation's gain, if any, from the disposition of a share of the capital stock of a corporation, an interest in a trust or an interest in a partnership has become a loss, or is less than it would have been if the decrease had not occurred; or
- (b) a corporation's loss, if any, from the disposition of a share or interest described in clause *a* is greater than it would have been if the decrease had not occurred;

the amount of the gain or loss, as the case may be, shall be deemed to be the amount that it would have been but for the decrease. *New.*

Identical
properties

49.—(1) Where at any particular time after 1971 a corporation that owns one property or two or more identical properties that was or each of which was, as the case may be, acquired by it after 1971, acquires one or more other properties, in this subsection referred to as "newly-acquired properties", each of which is identical to each such previously-acquired property, for the purposes of computing, at any subsequent time, the adjusted cost base to the corporation of each such identical property,

- (a) the corporation shall be deemed to have disposed of each such previously-acquired property immediately before the particular time for proceeds equal to its adjusted cost base to it immediately before the particular time; and

(b) the corporation shall be deemed to have acquired each such identical property at the particular time at a cost equal to the quotient obtained when,

- (i) the aggregate of the adjusted cost bases to the corporation immediately before the particular time of the previously-acquired properties, and the cost to it, determined without reference to this section, of the newly-acquired properties,

is divided by

- (ii) the number of such identical properties owned by the corporation immediately after the particular time.

(2) For the purposes of subsection 1, where a group of identical properties referred to in that subsection is a group of identical obligations within the meaning of subsection 3, subclause ii of clause b of subsection 1 shall be read as follows:

Where identical properties are bonds, etc.

- “(ii) the quotient obtained when the aggregate of the principal amounts of all such identical properties owned by the corporation immediately after the particular time is divided by the principal amount of the identical property.”

(3) For the purposes of this Subdivision, one bond, debenture, bill, note or other similar obligation issued by a debtor is identical to another such obligation issued by that debtor if both are identical in respect of all rights, in equity or otherwise, either immediately or in the future and either absolutely or contingently, attaching thereto, except as regards the principal amount thereof. *New.*

When bonds, etc., are identical

50.—(1) For the purposes of this Subdivision, where at any time in a fiscal year a corporation ceases to be resident in Canada, it shall be deemed to have disposed of each property, other than any property that would be taxable Canadian property if at no time in the fiscal year it had been resident in Canada, owned by the corporation at that time, for proceeds of disposition equal to the fair market value of the property at that time, and to have reacquired the property immediately thereafter at a cost equal to that fair market value.

Deemed disposition on ceasing to be resident in Canada

(2) For the purposes of this Subdivision, where at any time after 1971 a corporation becomes a resident of Canada, it shall be deemed to have acquired at that time each property owned by it at that time, other than property that would be taxable Canadian property if at no time in the fiscal year it had been

Deemed acquisition on becoming a resident of Canada

resident in Canada, if the corporation had disposed of it immediately before that time, at a cost equal to its fair market value at the time it became a resident of Canada.
New.

Granting
of option

51.—(1) Subject to subsections 2 and 3, for the purpose of this Subdivision the granting of an option, other than an option granted by a corporation to acquire shares of its capital stock or bonds or debentures to be issued by it, is a disposition of a property the adjusted cost base of which to the grantor immediately before the grant is nil.

Where
option
expires

(2) Where at any time an option described in subsection 1, other than an option the consideration for the granting of which is an amount described in subclause v of clause b of subsection 12 of section 63 paid pursuant to an agreement described in that subclause, that has been granted by a corporation after 1971 expires,

- (a) the corporation shall be deemed to have disposed of capital property at that time for proceeds equal to the proceeds received by it for the granting of the option; and
- (b) the adjusted cost base to the corporation of that capital property immediately before that time shall be deemed to be nil.

Where
option
exercised

(3) Where an option is exercised so that property is disposed of by a person, hereinafter referred to as the “vendor”, or so that property is acquired by another person, hereinafter referred to as the “purchaser”, for the purpose of computing the income of each such person the granting of the option and the exercise thereof shall be deemed not to be dispositions of property and,

- (a) if the option is an option to acquire property, there shall be included,
 - (i) in computing the vendor’s proceeds of disposition of the property, the consideration received by him for the option, and
 - (ii) in computing the cost to the purchaser of the property, the adjusted cost base to him of the option; and
- (b) if the option is an option to dispose of property, there shall be deducted,

- (i) in computing the vendor's proceeds of disposition of the property, the adjusted cost base to him of the option, and
- (ii) in computing the cost to the purchaser of the property, the consideration received by him for the option.

(4) Where,

- (a) an option granted by a corporation in a fiscal year, in this subsection referred to as the "initial fiscal year", is exercised in a subsequent fiscal year, in this subsection referred to as the "subsequent fiscal year";
- (b) the corporation has filed a return for the initial fiscal year as required by section 145; and
- (c) on or before the day on or before which it was required by section 145 to file a return for the subsequent fiscal year, has filed an amended return for the initial fiscal year excluding from its income the proceeds received by it for the granting of the option,

Reassessment where option exercised in subsequent year

such reassessment of the corporation's tax, interest or penalties for the fiscal year shall be made as is necessary to give effect to the exclusion. *New.*

52.—(1) For the purposes of this Subdivision, where a debt owing to a corporation at the end of a fiscal year, other than a debt owing to it in respect of the disposition of a personal-use property, is established by it to have become a bad debt in the fiscal year, it shall be deemed to have disposed of it at the end of the fiscal year and to have reacquired it immediately thereafter at a cost equal to nil.

Debts established to be bad debts

(2) Where a debt owing to a corporation at the end of a fiscal year that is a personal-use property of the corporation is established by it to have become a bad debt in the fiscal year,

Where debt personal-use property

- (a) it shall be deemed to have disposed of it at the end of the fiscal year for proceeds equal to the amount, if any, by which,
 - (i) its adjusted cost base to it immediately before the end of the fiscal year,

exceeds

(ii) the amount of its gain, if any, from the disposition of the personal-use property the proceeds of disposition of which included the debt; and

(b) it shall be deemed to have reacquired the debt immediately after the end of the fiscal year at a cost equal to the amount of the proceeds determined under clause *a*. *New.*

Convertible
properties

53. Where shares of the capital stock of a corporation have, after 1971, been acquired by a person in exchange for a preferred share, bond, debenture or note of the corporation, in this section referred to as a “convertible property”, the terms of which conferred upon the holder the right to make the exchange,

(a) the exchange shall be deemed not to have been a disposition of property; and

(b) the cost to the person of the shares shall be deemed to be the adjusted cost base to him of the convertible property immediately before the exchange. *New.*

Cost of
certain
property
value of
which
included in
income

54.—(1) For the purposes of this Subdivision, where a corporation has acquired property after 1971 and an amount in respect of the value thereof has been included in computing the corporation's income, the amount so included shall be added in computing the cost to it of that property.

Cost of
property
received
as dividend
in kind

(2) Where any property has, after 1971, been received by a shareholder of a corporation at any time as, on account or in lieu of payment of, or in satisfaction of, a dividend payable in kind, other than a stock dividend, in respect of a share owned by him of the capital stock of the corporation, he shall be deemed to have acquired the property at a cost to him equal to its fair market value at that time, and the corporation shall be deemed to have disposed of the property at that time for proceeds equal to that fair market value.

Cost of
stock
dividend

(3) Where a corporation that is a shareholder of another corporation has, after 1971, received a stock dividend in respect of a share owned by it of the capital stock of the other corporation, it shall be deemed to have acquired the share or shares received by it as a stock dividend at a cost to it equal to the amount of the stock dividend.

Cost of
property
acquired
as prize

(4) Where any property has been acquired by a corporation at any time after 1971 as a prize in connection with a lottery scheme, it shall be deemed to have acquired the property at a cost to it equal to its fair market value at that time.

(5) Where any property has, after 1971, been transferred to a beneficiary by a trustee under an employees profit sharing plan,

Cost of property transferred by trustee under employees profit sharing plan

(a) subsection 1 does not apply in respect of the property; and

(b) the beneficiary shall be deemed to have acquired the property at a cost to him equal to its fair market value at the time of the transfer. *New.*

55.—(1) In computing the adjusted cost base to a corporation of property at any time, there shall be added to the cost to the corporation of the property such of the following amounts in respect of the property as are applicable,

Adjustments to cost base

(a) any amount deemed by subsection 3 of section 42 to be a gain of the corporation for a fiscal year from a disposition before that time of the property;

(b) where the property is a share of the capital stock of another corporation resident in Canada, the amount of any dividend on the share deemed by subsection 1 of section 78 to have been received by the corporation before that time;

(c) where the property is a share of the capital stock of another corporation resident in Canada, and the corporation has, after 1971, made a contribution of capital to that other corporation otherwise than by way of loan, that proportion of such part of the amount of the contribution as cannot reasonably be regarded as a gift made to or for the benefit of any other shareholder of the other corporation who was related to the corporation that,

(i) the amount that may reasonably be regarded as the increase in the fair market value, as a result of the contribution, of the share,

is of

(ii) the amount that may reasonably be regarded as the increase in the fair market value, as a result of the contribution, of all shares of the capital stock of the other corporation owned by the corporation immediately after the contribution;

(d) where the property is an interest in a partnership,

- (i) an amount in respect of each fiscal year of the partnership ending after 1971 and before that time, equal to the aggregate of all amounts each of which is the corporation's share of the income of the partnership from any source for that fiscal year, computed as if this Act were read without reference to,
 - (A) the references in section 18, clause *a* of section 40 and subsection 1 of section 43 to "one-half", and
 - (B) clause *h* of this subsection, section 57 and subsection 2 of section 75,
- (ii) the corporation's share of any capital dividends received by the partnership before that time on shares of the capital stock of a corporation that were partnership property,
- (iii) the corporation's share of the amount, if any, by which,
 - (A) any proceeds of a life insurance policy received by the partnership after 1971 and before that time in consequence of the death of any person whose life was insured under the policy,

exceeds

 - (B) all amounts paid as or on account of premiums under the policy, and
- (iv) where the corporation has, after 1971, made a contribution of capital to the partnership otherwise than by way of loan, such part of the amount of the contribution as cannot reasonably be regarded as a gift made to or for the benefit of any other member of the partnership who was related to the corporation;
- (e) where the property is substituted property of the corporation within the meaning of clause *j* of section 56, the amount of the loss that was, by virtue of the acquisition by the corporation of the property, a superficial loss of any person;
- (f) where the property is a bond, debenture, bill, note, mortgage, hypothec or similar obligation, the amount, if any, by which the principal amount of the obligation

exceeds the amount for which the obligation was issued, if such excess was required by subsection 2 or 3 of section 20 to be included in computing the income of the corporation for a fiscal year commencing before that time;

- (g) where the property is land of the corporation, any amount paid by it after 1971 and before that time pursuant to a legal obligation to pay,
 - (i) interest on borrowed money used to acquire the land, or on an amount payable by it for the land, or
 - (ii) property taxes, not including income or profits taxes or taxes imposed by reference to the transfer of property, paid by it in respect of the property to a province or to a Canadian municipality,

to the extent that that amount was, by virtue of subsection 2 of section 22, not deductible in computing the corporation's income from the land or from a business for any fiscal year commencing before that time;

- (h) where the property is land used in a farming business carried on by the corporation, an amount in respect of each fiscal year ending after 1971 and commencing before that time, equal to the corporation's loss, if any, for that fiscal year from the farming business, to the extent that such loss,
 - (i) was not, by virtue of section 33, deductible in computing the corporation's income for that year,
 - (ii) was not deductible in computing the corporation's taxable income for the fiscal year in which the corporation disposed of the property or any previous fiscal year,
 - (iii) did not exceed the aggregate of,
 - (A) taxes, other than income or profits taxes or taxes imposed by reference to the transfer of the property, paid by the corporation in that fiscal year or payable by the corporation in respect of that fiscal year to a province or a

Canadian municipality in respect of the property, and

- (B) interest, paid by the corporation in that fiscal year or payable by the corporation in respect of that fiscal year, pursuant to a legal obligation to pay interest on borrowed money used to acquire the property or on any amount as consideration payable for the property,

to the extent that such taxes and interest were included in computing the loss, and

- (iv) did not exceed the remainder obtained when,

- (A) the aggregate of each of the corporation's losses from the farming business for fiscal years preceding that fiscal year, to the extent that they are required by this clause to be added in computing the corporation's adjusted cost base of the property,

is deducted from

- (B) the amount, if any, by which the corporation's proceeds of disposition of the property exceed the adjusted cost base to the corporation of the property immediately before that time, determined without reference to this clause;

- (i) where the property is a foreign resource property, such part of the foreign exploration and development expenses incurred by the corporation after 1971 with respect to such property that is not allowed as a deduction from income for the purposes of this Act.

Amounts
to be
deducted

(2) In computing the adjusted cost base to a corporation of property at any time there shall be deducted such of the following amounts in respect of the property as are applicable,

- (a) where the property is a share of the capital stock of another corporation resident in Canada,

- (i) any amount received by the corporation after 1971 and before that time as, on account or in lieu of payment of, or in satisfaction of, a

dividend on the share, other than a taxable dividend or capital dividend,

- (ii) an amount in respect of any taxable dividend on the share received by the corporation after 1971 and before that time, on any portion of which tax under Part VII of the *Income Tax Act* (Canada) was payable by the corporation equal to the amount by which that portion exceeds the tax under Part VII of the *Income Tax Act* (Canada) payable thereon,^{1970-71, c. 63 (Can.)}
- (iii) an amount in respect of any taxable dividend on the share received by the corporation after 1971 and before that time while it was not resident in Canada in respect of which tax under Part VIII of the *Income Tax Act* (Canada) was payable by the payor corporation, equal to the amount, if any, by which,
 - (A) that proportion of the dividend that such part of all dividends that were paid by the payor corporation at the time the dividend was paid as was paid out of designated surplus, within the meaning of Part VII of the *Income Tax Act* (Canada), is of all dividends that were paid by the payor corporation at the time the dividend was paid,

exceeds

- (B) such part of any tax under Part XIII of the *Income Tax Act* (Canada) that was payable by the corporation on the dividend as may reasonably be considered to have been payable on the proportion of the dividend described in sub-subclause A, and
- (iv) any amount received by the corporation after 1971 and before that time on a reduction of the paid-up capital of that other corporation in respect of the share except to the extent that that amount is deemed by subsection 4 of section 78 to be a dividend received by the corporation;

(b) where the property is an interest in a partnership,

- (i) an amount in respect of each fiscal year of the partnership ending after 1971 and before that time, equal to the aggregate of amounts each of which is the corporation's share of any loss of the partnership from any source for that fiscal year, computed as if this Act were read without reference to,
 - (A) the references in section 18 and clause *b* of section 40 to "one-half", and
 - (B) section 33, subsection 2 of section 42 and section 57,
 - (ii) an amount in respect of each fiscal year of the partnership ending after 1971 and before that time, equal to the corporation's share of the aggregate of,
 - (A) amounts that, but for clause *d* of subsection 1 of section 85 would be deductible in computing the income of the partnership for the fiscal year by virtue of subsection 1 of section 62 or the provisions of the *Corporations Tax Application Rules, 1972* relating to Canadian exploration and development expenses, and
 - (B) the Canadian exploration and development expenses, within the meaning assigned by subsection 12 of section 63, if any, incurred by the partnership in the fiscal year,
 - (iii) any amount deemed by subsection 3 of section 98 to have been a gift made by the corporation by virtue of its membership in the partnership at the end of any fiscal year of the partnership ending before that time,
 - (iv) any amount received by the corporation after 1971 and before that time as, on account or in lieu of payment of, or in satisfaction of, a distribution of the corporation's share of the partnership profits or partnership capital;
- (c) where the property is such that the corporation has, after 1971 and before that time, disposed of a part of it while retaining another part of it, the amount

determined under section 45 to be the adjusted cost base to the corporation of the part so disposed of;

- (d) where the property is a share, or an interest therein or right thereto, of the capital stock of another corporation, the amount paid by the corporation therefor, to the extent that the amount was paid pursuant to an agreement described in subclause v of clause b of subsection 12 of section 63;
- (e) where the property was received by the corporation as consideration for any payment,
 - (i) made by the corporation as a shareholder corporation, within the meaning given to that expression by subsection 12 of section 63, to a joint exploration corporation of the shareholder, and
 - (ii) described in subclause i of clause a of subsection 12 of section 63,

such portion of the payment as may reasonably be considered to be related to an agreed portion within the meaning given to that expression by clause a of subsection 12 of section 63, of the joint exploration corporation's Canadian exploration and development expenses;

- (f) where section 71 is applicable in respect of the corporation, the amount, if any, by which the adjusted cost base to the corporation of the property is required in prescribed manner to be reduced before that time;
- (g) where the property is,
 - (i) a capital interest in a trust that was purchased by the corporation, or
 - (ii) a unit of a unit trust,

any amount paid to the corporation by the trust after 1971 and before that time as, on account or in lieu of payment of, or in satisfaction of a distribution or payment of capital, otherwise than as proceeds of disposition of the interest or unit, as the case may be, or of a part thereof;

- (h) where the property is a capital interest in a trust, other than a unit trust, not resident in Canada that was purchased after 1971 by the corporation from a

non-resident person at a time when the fair market value of such of the properties of the trust as were taxable Canadian properties was not less than 50 per cent of the aggregate of the fair market value of all properties of the trust and the amount of any money of the trust on hand, that proportion of the amount, if any, by which,

- (i) the fair market value at that time of such of the properties of the trust as were taxable Canadian properties,

exceeds

- (ii) the aggregate of the adjusted cost bases to the trust at that time of such of the properties of the trust as were taxable Canadian properties,

that the fair market value at that time of the interest is of the fair market value at that time of all capital interests in the trust;

- (i) where the property is a unit of a unit trust not resident in Canada that was purchased after 1971 by the corporation from a non-resident person at a time when the fair market value of such of the properties of the trust as were taxable Canadian properties was not less than 50 per cent of the aggregate of the fair market value of all properties of the trust and the amount of any money of the trust on hand, that proportion of the amount, if any, by which,

- (i) the fair market value at that time of such of the properties of the trust as were taxable Canadian properties,

exceeds

- (ii) the aggregate of the adjusted cost bases to the trust at that time of such of the properties of the trust as were taxable Canadian properties,

that the fair market value at that time of the unit is of the fair market value at that time of all of the issued units of the trust;

- (j) any grant, subsidy or other assistance from a government, municipality or other public authority received by the corporation for or in respect of the acquisition by it after 1971 of the property;

- (k) where the property is a bond, debenture or similar security, other than an income bond or income debenture, any amount that was deductible by virtue of subsection 12 of section 24 in computing the corporation's income for any fiscal year commencing before that time in respect of interest thereon; and
- (l) such part of the cost to the corporation of the property as was deductible, otherwise than by virtue of this Subdivision, in computing the corporation's income for any fiscal year commencing before that time.

(3) For the purposes of clauses *h* and *i* of subsection 2, ^{Application of cls. *h* and *i* of subs. 2} where any property of a trust would, at a particular time have been a taxable Canadian property of the trust if it had been disposed of by the trust at that time, the property shall be deemed to have been a taxable Canadian property of the trust at that time. *New.*

56. In this Subdivision,

^{Interpre-}
tation

- (a) "adjusted cost base" to a corporation of any property at any time means, except as otherwise provided,
 - (i) where the property is depreciable property of the corporation, the capital cost to it of the property as of that time, and
 - (ii) in any other case, the cost to the corporation of the property adjusted, as of that time, in accordance with section 55,

except that

- (iii) for greater certainty, where any property of the corporation is property that was reacquired by the corporation after having been previously disposed of by it, no adjustment to the cost to the corporation of the property that was required to be made under section 55 before its reacquisition by the corporation shall be made under that section to the cost to the corporation of the property as reacquired property of the corporation, and
- (iv) in no case shall the adjusted cost base of any property at the time of its disposition by the corporation be less than nil;
- (b) "capital property" of a corporation means,
 - (i) any depreciable property of the corporation, and

- (ii) any property, other than depreciable property, any gain or loss from the disposition of which would, if the property were disposed of, be a capital gain or a capital loss, as the case may be, of the corporation;
- (c) "disposition" of any property except as expressly otherwise provided, includes,
 - (i) any transaction or event entitling a corporation to proceeds of disposition of property,
 - (ii) any transaction or event by which,
 - (A) any property of a corporation that is a share, bond, debenture, note, certificate, mortgage, hypothec, agreement of sale or similar property, or an interest therein, is redeemed in whole or in part or is cancelled,
 - (B) any debt owing to a corporation or any other right of a corporation to receive an amount is settled or cancelled,
 - (C) any share owned by a corporation is converted by virtue of an amalgamation, or
 - (D) any option held by a corporation to acquire or dispose of property expires, and
 - (iii) any transfer of property to a trust, or any transfer of property of a trust to any beneficiary under the trust, except as provided in clause *v*,

but, for greater certainty, does not include,

- (iv) any transfer of property for the purpose only of securing a debt or a loan, or any transfer by a creditor for the purpose only of returning property that had been used as security for a debt or a loan,
- (v) any transfer of property by virtue of which there is a change in the legal ownership of the property without any change in the beneficial ownership thereof,

- (vi) any issue by a corporation of a bond, debenture, note, certificate, mortgage or hypothec of the corporation, or
- (vii) any issue by a corporation of a share of its capital stock, or any other transaction that, but for this subclause, would be a disposition by a corporation of a share of its capital stock;
- (d) "eligible capital property" of a corporation means any property, one-half of any amount payable to the corporation as consideration for the disposition of which would, if it disposed of the property, be an eligible capital amount in respect of a business within the meaning given that expression in subsection 1 of section 18;
- (e) "foreign exploration and development expenses" incurred by a corporation means,
 - (i) any drilling or exploration expense, including any general geological or geophysical expense, incurred by it on or in respect of exploring or drilling for petroleum or natural gas outside Canada,
 - (ii) any prospecting, exploration or development expense incurred by it in searching for minerals outside Canada,
 - (iii) its share of the foreign exploration and development expenses incurred by any association, partnership or syndicate in a fiscal year thereof, if at the end of that fiscal year it was a member or partner thereof;
- (f) "foreign resource property" of a corporation means any property that would be a Canadian resource property of the corporation if clause c of subsection 12 of section 63 were read as if the references therein to "in Canada" were read as references to "outside Canada", and were read without reference to the words "after 1971";
- (g) "listed personal property" of a corporation means its personal-use property that is all or any portion of, or any interest in or right to, any,
 - (i) print, etching, drawing, painting, sculpture, or other similar work of art,

- (ii) jewellery,
- (iii) rare folio, rare manuscript, or rare book,
- (iv) stamp, or
- (v) coin;

(h) "personal-use property" of a corporation includes,

- (i) property owned by it that is used primarily for the personal use or enjoyment of one or more persons each of whom is,

(A) a person related to the corporation, or

(B) where the corporation is a beneficiary under a trust or any person related to the beneficiary,

- (ii) any debt owing to the corporation in respect of the disposition of property that was its personal-use property, and
- (iii) any property of the corporation that is an option to acquire property that would, if it acquired it, be personal-use property of the corporation,


and "personal-use property" of a partnership includes any partnership property that is used primarily for the personal use or enjoyment of any member of the partnership or for the personal use or enjoyment of one or more persons each of whom is a member of the partnership or a person related to such a member;

(i) "proceeds of disposition" of property includes,

- (i) the sale price of property that has been sold,
- (ii) compensation for property unlawfully taken,
- (iii) compensation for property destroyed, and any amount payable under a policy of insurance in respect of loss or destruction of property,
- (iv) compensation for property taken under statutory authority or the sale price of property sold to a person by whom notice of an intention to take it under statutory authority was given,

- (v) compensation for property injuriously affected, whether lawfully or unlawfully or under statutory authority or otherwise,
- (vi) compensation for property damaged and any amount payable under a policy of insurance in respect of damage to property, except to the extent that such compensation or amount, as the case may be, has within a reasonable time after the damage been expended on repairing the damage,
- (vii) an amount by which the liability of a corporation to a mortgagee is reduced as a result of the sale of mortgaged property under a provision of the mortgage, plus any amount received by the corporation out of the proceeds of such sale, and
- (viii) any amount included in computing a corporation's proceeds of disposition of the property by virtue of clause *c* of section 70,

but, notwithstanding any other provision of this Part, does not include any amount that would otherwise be proceeds of disposition of a share to the extent that such amount is deemed by subsection 2 or 3 of section 78 to be a dividend; and

 (j) "superficial loss" of a person means his loss from the disposition of a property in any case where,

- (i) the same or identical property, in this clause referred to as "substituted property", was acquired, during the period beginning 30 days before the disposition and ending 30 days after the disposition, by the person or a corporation controlled, whether directly or indirectly in any manner whatever, by him, and
- (ii) at the end of the period referred to in sub-clause i the person or the corporation controlled, whether directly or indirectly in any manner whatever, as the case may be, owned the substituted property,

except that a loss otherwise described in this clause shall be deemed not to be a superficial loss if the disposition giving rise to the loss,

- (iii) was a disposition deemed by section 50 to have been made,
- (iv) was the expiry of an option, or

- (v) was a disposition of property by the person to which subsection 4 of section 79 applies.

Avoidance

57. For the purposes of this subdivision, where the result of one or more sales, exchanges, declarations of trust, or other transactions of any kind whatever is that a corporation has disposed of property under circumstances such that it may reasonably be considered to have artificially or unduly,

- (a) reduced the amount of its gain from the disposition;
- (b) created a loss from the disposition; or
- (c) increased the amount of its loss from the disposition,

the corporation's gain or loss, as the case may be, from the disposition of the property shall be computed as if such reduction, creation or increase, as the case may be, had not occurred. *New.*

SUBDIVISION C—OTHER SOURCES OF INCOME

Amounts to
be included
in income
for year

58.—(1) Without restricting the generality of section 12, there shall be included in computing the income of a corporation for a fiscal year,

Pension
benefits

- (a) any amount received in the fiscal year as, on account or in lieu of payment of, or in satisfaction of a superannuation or pension benefit;

Annuity
payments

- (b) any amount received by the corporation in the fiscal year as an annuity payment except to the extent that the payment is otherwise required to be included in computing the corporation's income for the fiscal year;

Deferred
profit
sharing plan

- (c) amounts received by the corporation in the fiscal year under a deferred profit sharing plan as provided by section 120;

Life insur-
ance policy
proceeds

- (d) amounts that the corporation became entitled to receive in the fiscal year upon the disposition of an interest in a life insurance policy, to the extent provided by section 121;

Allocations
under insur-
ance policies

- (e) amounts allocated to the corporation in the fiscal year by an insurer as provided by section 121;

Legal costs

- (f) amounts received by the corporation in the fiscal year as legal costs awarded to it by a court on an appeal in relation to an assessment of tax, interest or

penalties under this Act or the *Income Tax Act* (Canada), if with respect to that assessment an amount has been deducted or may be deductible under clause *b* of subsection 1 of section 60 in computing its income;


(g) the amount, if any, by which any grant received by the corporation in the fiscal year to enable it to carry on research or any similar work exceeds the aggregate of expenses incurred by it in the fiscal year for the purpose of carrying on the work, other than, ^{Research grants}

(i) expenses in respect of which the corporation has been reimbursed, or

(ii) expenses that are otherwise deductible in computing the corporation's income for the fiscal year. R.S.O. 1970, c. 91, s. 17, *amended*.

(2) A payment or transfer of property made pursuant to the direction of, or with the concurrence of, a corporation to some other person for the benefit of the corporation or as a benefit that the corporation desired to have conferred on the other person shall be included in computing the corporation's income to the extent that it would be if the payment or transfer had been made to the corporation. ^{Indirect payments} R.S.O. 1970, c. 91, s. 27 (1).

(3) For the purpose of this Part, a payment or transfer in a fiscal year of property made to the corporation or some other person for the benefit of the corporation and other persons jointly or a profit made by the corporation and other persons jointly in a fiscal year shall be deemed to have been received by the corporation in the fiscal year to the extent of the corporation's interest therein notwithstanding that there was no distribution or division thereof in that fiscal year. ^{Undistributed payments or profits} R.S.O. 1970, c. 91, s. 27 (2).

 (4) Where a person has, at any time before the end of a fiscal year, whether before or after the end of 1971, transferred or assigned to another person with whom he was not dealing at arm's length the right to an amount that would, if the right thereto had not been so transferred or assigned, be included in computing the person's income for the fiscal year because the amount would have been received or receivable by him in or in respect of the fiscal year, the amount shall be included in computing the person's income for the fiscal ^{Transfer of rights to income}

year unless the income is from property and the person has also transferred or assigned the property. R.S.O. 1970, c. 91, s. 33, *amended*.

Amount
receivable
as consid-
eration for
disposition
of resource
property

59.—(1) Where in a fiscal year a corporation disposes of,

(a) a Canadian resource property; or

(b) any right, licence or privilege described in subsection 12 of section 58 of *The Corporations Tax Act*, as it read in its application to fiscal years prior to 1972, that was acquired by the corporation,

R.S.O. 1970,
c. 91

(i) in the case of,

(A) a corporation that is a principal-business corporation within the meaning given to that expression by subsection 12 of section 63 or that was, at the time it acquired the property, such a principal-business corporation, or

(B) an association, partnership or syndicate described in subsection 4 of section 83A of the *Income Tax Act* (Canada) as it read in its application to the 1971 fiscal year,

R.S.C. 1952,
c. 148

before 1972, and

(ii) in any other case, after April 10, 1962 and before 1972,

under an agreement or other contract or arrangement described therein,

the amount receivable by the corporation as consideration for the disposition thereof shall be included in computing the corporation's income for the fiscal year, notwithstanding that the amount of any part thereof may not be received until a subsequent fiscal year. R.S.O. 1970, c. 91, s. 58 (15).

Amount
deducted
under s.
61 in pre-
ceding year

(2) There shall be included in computing a corporation's income for a fiscal year any amount in respect of,

(a) a Canadian resource property; or

- (b) any property referred to in clause *b* of subsection 1 or clause *a* of subsection 3,

that has been deducted under section 61 in computing the corporation's income for the immediately preceding fiscal year.

- (3) Where a corporation has made a disposition after 1971 of property owned by it on December 31, 1971, that, Disposition of resource property acquired before 1972

- (a) is property described in any of subclauses i to vi of clause *c* of subsection 12 of section 63 and is not property described in clause *b* of subsection 1,

the following rules apply,

- (b) the relevant percentage of the amount receivable by the corporation as consideration for the disposition thereof shall be included in computing the corporation's income for its fiscal year in which the disposition was made, notwithstanding that the amount or any part thereof may not be received until a subsequent fiscal year; and
- (c) where the corporation and the person who acquired the property were not dealing with each other at arm's length, for the purposes of this section, sections 61 and 63,
- (i) the cost to that person of the property shall be deemed to be the amount included in the corporation's income by virtue of clause *b* in respect of the disposition by the corporation of the property, and
- (ii) when that person subsequently disposes of the property or any right or interest therein, the amount receivable by that person as consideration for the disposition shall be deemed to be the relevant percentage of the amount actually receivable by that person as consideration therefor.

- (4) For the purposes of clauses *b* and *c* of subsection 3, the "relevant percentage" of any amount receivable as consideration for the disposition of property is 60 per cent plus the percentage, not exceeding 40 per cent, obtained when 5 per cent is multiplied by the number of full calendar years in the period commencing at the end of 1972 and ending with the end of the calendar year in which the disposition was made. Determination of "relevant percentage"

Interpre-
tation

(5) In this section, "Canadian resource property" has the meaning given to that expression by section 63. *New*

SUBDIVISION D—DEDUCTIONS IN COMPUTING INCOME

Other
deduc-
tions

60.—(1) There may be deducted in computing a corporation's income for a fiscal year such of the following amounts as are applicable,

Capital
element
of annuity
payments

(a) the capital element of each annuity payment, other than a superannuation or pension benefit, a payment under a registered retirement savings plan, or a payment of an annuity paid or purchased pursuant to a deferred profit sharing plan, included in computing the corporation's income for the fiscal year, that is to say,

(i) if the annuity was paid under a contract, an amount equal to that part of the payment determined in prescribed manner to have been a return of capital, and

(ii) if the annuity was paid under a will or trust, such part of the payment as can be established by the recipient not to have been paid out of the income of the estate or trust; R.S.O. 1970, c. 91, s. 23 (1) (q).

Expenses
of objec-
tion or
appeal

(b) amounts paid by the corporation in the fiscal year in respect of fees or expenses incurred in preparing, instituting or prosecuting an objection to, or an appeal in relation to, an assessment of tax, interest or penalties under this Act or the *Income Tax Act* (Canada); R.S.O. 1970, c. 91, s. 23 (1) (w).

1970-71,
c. 63 (Can.)Corpora-
tion tax

(c) all corporation taxes payable in the fiscal year by the corporation. R.S.O. 1970, c. 91, s. 23 (12).

Interpre-
tation

(2) In clause *c* of subsection 1 and in this subsection,

(a) "corporation tax" means a tax imposed by the Legislature of a province or by a municipality in the province that is declared by the regulations to be a tax on corporations, but does not include,

(i) a corporation income tax, or

(ii) any other tax declared by the regulations not to be a corporation tax;

- (b) "corporation income tax" means a tax imposed by the Parliament of Canada or by the Legislature of a province or by a municipality in the province that is declared by the regulations to be a tax of general application on the profits of corporations. R.S.O. 1970, c. 91, s. 23 (13).

61.—(1) In computing a corporation's income for a fiscal year, in this subsection referred to as the "current year", where,

- (a) by virtue of subsection 1 or 3 of section 59, an amount has been included in computing the corporation's income for the current year or a previous fiscal year; or
- (b) by virtue of subsection 15 or 16 of section 58 of *The Corporations Tax Act*, as it read in its application to fiscal years prior to 1972, an amount has been included in computing the corporation's income for that previous fiscal year,

R.S.O. 1970,
c. 91
Reserve in
respect of
consideration
for disposi-
tion of
resource
property
not receivable
until
subsequent
year

R.S.O. 1970,
c. 91

in respect of the disposition of any property and that amount or a part thereof is not receivable until a day that is after the end of the current year, there may be deducted as a reserve in respect of that amount the part thereof that is not receivable until a day that is after the end of the current year, not exceeding, where the property was disposed of in a fiscal year preceding the current year, any amount deducted under this subsection in respect of the disposition of the property in computing the corporation's income for the fiscal year immediately preceding the current year, and for greater certainty, no deduction may be made in respect of that amount by virtue of clause *p* of subsection 1 of section 24. R.S.O. 1970, c. 91, s. 61 (1).

(2) Subsection 1 does not apply to allow a deduction in computing the income of a corporation for a fiscal year if the corporation, at any time in the fiscal year or in the immediately following fiscal year,

Application
of subs. 1

- (a) ceases to be a resident of Canada;
- (b) becomes exempt from tax under any provision of this Part; or
- (c) if a non-resident ceases to have a permanent establishment in Canada. R.S.O. 1970, c. 91, s. 61 (8).

Allowance
for oil
or gas
well, mine or
timber limit

62.—(1) There may be deducted in computing a corporation's income for a fiscal year such amount as an allowance in respect of an oil or gas well, mineral resource or timber limit, if any, as is allowed to the corporation by regulation. R.S.O. 1970, c. 91, s. 23 (2) (b).

Regulations

(2) For greater certainty it is hereby declared that, in the case of a regulation made under subsection 1 allowing to a corporation an amount in respect of an oil or gas well or a mineral resource,

- (a) there may be allowed to the corporation by such regulation an amount in respect of any or all oil or gas wells or mineral resources in which the corporation has any interest; and
- (b) notwithstanding any other provision contained in this Act, the Lieutenant Governor in Council may prescribe the formula by which the amount that may be allowed to the corporation by such regulation shall be determined. R.S.O. 1970, c. 91, s. 23 (4).

Lessee's
share of
allowance

(3) Where a deduction is allowed under subsection 1 in respect of a coal mine operated by a lessee, the lessor and lessee may agree as to what portion of the allowance each may deduct and, in the event that they cannot agree, the Minister may fix the portions. R.S.O. 1970, c. 91, s. 23 (5).

Exploration
and develop-
ment ex-
penses of
principal-
business
corporations

63.—(1) A principal-business corporation may deduct, in computing its income for a fiscal year, the lesser of,

- (a) the aggregate of such of its Canadian exploration and development expenses as were incurred by it before the end of the fiscal year, to the extent that they were not deductible in computing income for a previous fiscal year; and
- (b) of that aggregate, an amount equal to its income for the fiscal year if no deduction were allowed under this section or section 62, minus the deductions allowed for the fiscal year by subsections 2, 5 and 6 and by section 100. R.S.O. 1970, c. 91, s. 58 (5).

Expenses
of special
product
corporations

(2) A corporation, other than a principal-business corporation the principal business of which is described in subclauses i or ii of clause f of subsection 12, whose principal business is production or marketing of sodium chloride or potash or whose business includes manufacturing products the manufacturing of which involves processing sodium chloride or potash, may deduct, in computing its income for a fiscal year,

the drilling and exploration expenses incurred by it in the year on or in respect of exploring or drilling for halite or sylvite. R.S.O. 1970, c. 91, s. 58 (4).

(3) A corporation other than a principal-business corporation may deduct, in computing its income for a fiscal year, the lesser of,

Expenses
of other
corporations

(a) the aggregate of such of its Canadian exploration and development expenses as were incurred by it before the end of the fiscal year to the extent they were not deductible in computing its income for a previous fiscal year; and

(b) of that aggregate, the amount, if any, by which the greater of,

(i) such amount as the corporation may claim, not exceeding 20 per cent of the aggregate determined under clause *a*, and

(ii) the aggregate of,

(A) its income for the fiscal year from operating an oil or gas well in Canada or from operating a mine in Canada, if the corporation had an interest in the oil or gas well, or mine, as the case may be, at any time in the fiscal year,

(B) its income for the fiscal year from royalties in respect of an oil or gas well in Canada or a mine in Canada, and

(C) the aggregate of amounts each of which is an amount, in respect of a Canadian resource property or a property referred to in clause *b* of subsection 1 of section 59 or clause *a* of subsection 3 of section 59 that has been disposed of by it, equal to the amount, if any, by which,

1. the amount included in computing its income for the fiscal year by virtue of section 59 in respect of the disposition of the property,

exceeds

2. the amount deducted under section 61 in respect of the property in computing its income for the fiscal year,

if no deductions were allowed under section 62,

exceeds

- (iii) the amount of any deduction allowed by the *Corporations Tax Application Rules, 1972* in respect of this subclause in computing its income for the fiscal year. R.S.O. 1970, c. 91, s. 58 (10).

Dealers

(4) Sections 59 and 61 and subsection 3 do not apply in computing the income for a fiscal year under this Part of a corporation, other than a principal-business corporation, whose business includes trading or dealing in rights, licences or privileges to explore for, drill for or take minerals, petroleum, natural gas or other related hydrocarbons. R.S.O. 1970, c. 91, s. 58 (19).

Successor
corporation's
Canadian
exploration
and
development
expenses

(5) Where a principal-business corporation, in this subsection referred to as the "successor corporation", has, at any time after 1971, acquired from another principal-business corporation, in this subsection referred to as the "predecessor corporation", all or substantially all of the property of the predecessor corporation used by it in carrying on in Canada its principal business, there may be deducted by the successor corporation, in computing its income under this Part for a fiscal year, the lesser of,

- (a) the aggregate of the Canadian exploration and development expenses incurred by the predecessor corporation to the extent that such expenses,
 - (i) were not deductible by the successor corporation in computing its income for a previous fiscal year, and were not deductible by the predecessor corporation in computing its income for the fiscal year in which the property so acquired was acquired by the successor corporation or its income for a previous fiscal year, and
 - (ii) would have been deductible by the predecessor corporation in computing its income for the fiscal year in which the property so acquired was acquired by the successor corporation, if

the predecessor corporation's income for that fiscal year had been sufficient for the purpose; and

- (b) of that aggregate, an amount equal to such part of its income for the fiscal year if no deduction were allowed under this section, section 62 or the *Corporations Tax Application Rules, 1972* in respect of this clause, minus any deductions allowed for the fiscal year by subsections 2 and 6, section 100 and the provisions of the *Corporations Tax Application Rules, 1972* allowing a deduction for the purposes of this clause, as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells, or the production of minerals from mines, situated on property in Canada from which the predecessor corporation had, immediately before the acquisition by the successor corporation of the property so acquired, a right to take or remove petroleum or natural gas or a right to take or remove minerals,

and, in respect of any such expenses included in the aggregate determined under clause *a*, no deduction may be made under this section by the predecessor corporation in computing its income for a fiscal year subsequent to its fiscal year in which the property so acquired was acquired by the successor corporation. R.S.O. 1970, c. 91, s. 58 (23).

(6) Where a principal-business corporation, in this subsection referred to as the "second successor corporation" Second successor corporation's Canadian exploration and development expenses has at any time after 1971 acquired from a corporation, in this subsection referred to as the "first successor corporation", that was a successor corporation within the meaning of subsection 5, all or substantially all of the property of the first successor corporation used by it in carrying on in Canada its principal business, there may be deducted by the second successor corporation, in computing its income under this Part for a fiscal year, the lesser of,

- (a) the aggregate determined by adding the expenses referred to in clause *a* of subsection 5 for the purpose of determining the deduction allowable to the first successor corporation under subsection 5 in computing its income for a previous fiscal year, to the extent that such expenses,
- (i) were not deductible by the second successor corporation or any other corporation in computing its income for a previous fiscal

year, and were not deductible by the first successor corporation in computing its income for the fiscal year in which the property so acquired was acquired by the second successor corporation, and

(ii) would, but for the provisions of clause *b* of subsection 5, have been deductible by the first successor corporation in computing its income for the fiscal year in which the property so acquired was acquired by the second successor corporation; and

(b) of that aggregate, an amount equal to such part of its income for the fiscal year if no deduction were allowed under this section or section 62 or the *Corporations Tax Application Rules, 1972* in respect of this clause, minus any deductions allowed for the fiscal year by subsection 2, section 100 and the provisions of the *Corporations Tax Application Rules, 1972* allowing a deduction for the purposes of this clause, as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells, or the production of minerals from mines, situated on property in Canada from which the predecessor of the first successor corporation within the meaning of subsection 5 had, immediately before the acquisition by the first successor corporation of the property so acquired by the second successor corporation, a right to take or remove petroleum or natural gas or a right to take or remove minerals,

and, in respect of any such expenses included in the aggregate determined under clause *a*, no deduction may be made under this section by the first successor corporation in computing its income for a fiscal year subsequent to its fiscal year in which the property so acquired was acquired by the second successor corporation. R.S.O. 1970, c. 91, s. 58 (27).

Joint
exploration
corporation

(7) A joint exploration corporation may in a fiscal year elect in prescribed form to renounce in favour of another corporation that is a principal-business corporation an agreed portion of the aggregate of such of the joint exploration corporation's Canadian exploration and development expenses as were incurred by it during a period, after 1971 and before the end of the fiscal year, throughout which the other corporation was a shareholder corporation, to the extent that the aggregate of such expenses exceeds any amount deductible under subsection 1 in respect thereof by the joint exploration

corporation in computing its income for any fiscal year previous to the fiscal year in which the election was made, and upon the election the said agreed portion,

- (a) shall be deemed, for the purpose of subsection 1, to be Canadian exploration and development expenses incurred by the other corporation in the fiscal year of the corporation in which the election was made; and
- (b) shall be subtracted from the aggregate described in clause a of subsection 1 in determining the amount deductible by the joint exploration corporation under subsection 1 in computing its income. R.S.O. 1970, c. 91, s. 58 (7, 8), *amended*.

(8) Where control of a corporation has, after 1971 and between a time when the corporation ceased to carry on active business and a time when it commenced to carry on active business again, been acquired by,

- (a) a person; or
- (b) a person and other persons with whom that person does not deal at arm's length,

who did not control the corporation at the time when it so ceased to carry on active business, all of the Canadian exploration and development expenses incurred by the corporation before the time when it commenced to carry on active business again shall be deemed to have been deductible in computing its incomes for fiscal years ending before the time when such control was so acquired. *New*.

(9) In computing a corporation's Canadian exploration and development expenses,

- (a) there shall be deducted any amount paid to it,
 - (i) after 1971 under the *Northern Mineral Exploration Assistance Regulations* (Canada) made under an *Appropriation Act* (Canada) that provides for payments in respect of the Northern Mineral Grants Program,
 - (ii) pursuant to any agreement entered into between the corporation and Her Majesty in right of Canada under the Northern Mineral Grants Program or the Development Program of the Department of Indian Affairs and

Control
change

Computation
of exploration
and develop-
ment
expenses

Northern Development, to the extent that the amount has been expended by the corporation as or on account of Canadian exploration and development expenses incurred by it, or

(iii) after 1971 under the *Mineral Exploration Assistance Program* (Ontario); and

(b) there shall be included any amount, except an amount in respect of interest, paid by the corporation after 1971 under the Regulations referred to in subclause i of clause *a* to Her Majesty in right of Canada and under the *Mineral Exploration Assistance Program* (Ontario) to Her Majesty in right of Ontario. R.S.O. 1970, c. 91, s. 58 (28).

Limitation

(10) Where a corporation has incurred expenses the deduction of which from income is authorized under more than one provision of this section, the corporation is not entitled to make the deduction under more than one provision but is entitled to select the provision under which to make the deduction. R.S.O. 1970, c. 91, s. 58 (30).

Amounts deemed deductible under this Subdivision

(11) For the purposes of section 12, any amount deductible under the *Corporations Tax Application Rules, 1972* in respect of this subsection shall be deemed to be deductible under this Subdivision. *New.*

Inter-pretation

(12) In this section,

(a) "agreed portion" in respect of a corporation that was a shareholder corporation of a joint exploration corporation means such amount as may be agreed upon between the joint exploration corporation and the shareholder corporation not exceeding,

(i) the payments referred to in subclause iii of clause *g* made by the shareholder corporation to the joint exploration corporation during the period it was a shareholder corporation of the joint corporation,

minus,

(ii) the aggregate of the amounts, if any, previously renounced by the joint exploration corporation under subsection 7 in favour of the shareholder corporation; R.S.O. 1970, c. 91, s. 58 (9) (c).

(b) "Canadian exploration and development expenses" incurred by a corporation means,

- (i) any drilling or exploration expense, including any general geological or geophysical expense, incurred by the corporation after 1971 on or in respect of exploring or drilling for petroleum or natural gas in Canada,
- (ii) any prospecting, exploration or development expense incurred by after 1971 in searching for minerals in Canada,
- (iii) the cost to the corporation of any Canadian resource property acquired by it,
- (iv) the corporation's share of the Canadian exploration and development expenses incurred after 1971 by any association, partnership or syndicate in a fiscal year thereof, if at the end of that fiscal year the corporation was a member or partner thereof, and
- (v) where the corporation is a principal-business corporation, the amount paid by it for any share or any interest therein or right thereto, to the extent that the amount was paid pursuant to an agreement under which it undertook to incur, after 1971, the cost of,

(A) drilling or exploration activities, including any general geological or geophysical activities, in or in respect of exploring or drilling for petroleum or natural gas in Canada,

(B) prospecting, exploration or development activities in searching for minerals in Canada, or

(C) acquiring a Canadian resource property,

but, for greater certainty, does not include,

- (vi) any consideration given by the corporation for any share or any interest therein or right thereto, except as provided by subclause v, or
- (vii) any cost described in subclause v, if the obligation of any other person to incur those

costs was, by virtue of subclause v, a Canadian exploration and development expense of that other person; *New*.

(c) "Canadian resource property" of a corporation means any property acquired by it after 1971 that is,

- (i) any right, licence or privilege to explore for, drill for, or take petroleum, natural gas or other related hydrocarbons in Canada,
- (ii) any right, licence or privilege to prospect, explore, drill, or mine for, minerals in a mineral resource in Canada,
- (iii) any oil or gas well situated in Canada,
- (iv) any rental or royalty computed by reference to the amount or value of production from an oil or gas well, or a mineral resource, situated in Canada,
- (v) any real property situated in Canada the principal value of which depends upon its mineral resource content, but not including any depreciable property situated on the surface of the property or used or to be used in connection with the extraction or removal of minerals therefrom, or
- (vi) any right to or interest in any property described in any of subclauses i to v; *New*.

(d) "drilling or exploration expense" incurred on or in respect of exploring or drilling for petroleum or natural gas includes,

- (i) any annual payment made for the preservation of a Canadian resource property or any property referred to in clause b of subsection 1 of section 59, and
- (ii) any expense incurred on or in respect of,
 - (A) drilling or converting a well for the disposal of waste liquids from a petroleum or natural gas well,
 - (B) drilling for water or gas for injection into a petroleum or natural gas formation, or

- (C) drilling or converting a well for the injection of water or gas to assist in the recovery of petroleum or natural gas from another well; R.S.O. 1970, c. 91, s. 58 (26).
- (e) "joint exploration corporation" means a principal-business corporation that has not at any time since its incorporation had more than ten shareholders, not including any individual holding a share for the sole purpose of qualifying as a director; *New*.
- (f) "principal-business corporation" means a corporation whose principal business is,
 - (i) production, refining or marketing of petroleum, petroleum products or natural gas, or exploring or drilling for petroleum or natural gas,
 - (ii) mining or exploring for minerals,
 - (iii) processing mineral ores for the purpose of recovering metals therefrom,
 - (iv) a combination of,
 - (A) processing mineral ores for the purpose of recovering metals therefrom, and
 - (B) processing metals recovered from the ores so processed,
 - (v) fabricating metals, or
 - (vi) operating a pipeline for the transmission of oil or natural gas; and R.S.O. 1970, c. 91, s. 58 (5).
- (g) "shareholder corporation" of a joint exploration corporation means a corporation that for the period in respect of which the expression is being applied,
 - (i) was a shareholder of the joint exploration corporation,
 - (ii) was a principal-business corporation, and
 - (iii) made payments to the joint exploration corporation in respect of Canadian exploration and development expenses incurred by the joint exploration corporation. R.S.O. 1970, c. 91, s. 58 (9).

SUBDIVISION E—RULES RELATING
TO COMPUTATION OF INCOME

General
limitation re
expenses

64. In computing income, no deduction shall be made in respect of an outlay or expense in respect of which any amount is otherwise deductible under this Act, except to the extent that the outlay or expense was reasonable in the circumstances. R.S.O. 1970, c. 91, s. 24 (2).

Amounts
in part
consideration
for disposition
of property

65. Where an amount can reasonably be regarded as being in part the consideration for the disposition of any property of a corporation and as being in part consideration for something else, the part of the amount that can reasonably be regarded as being the consideration for such disposition shall be deemed to be proceeds of disposition of that property irrespective of the form or legal effect of the contract or agreement, and the person to whom the property was disposed of shall be deemed to have acquired the property at the same part of that amount. R.S.O. 1970, c. 91, s. 32 (8) par. 7.

Inadequate
considera-
tions

66.—(1) Except as expressly otherwise provided in this Act,

(a) where a corporation has acquired anything from a person with whom it was not dealing at arm's length at an amount in excess of the fair market value thereof at the time it so acquired it, the corporation shall be deemed to have acquired it at that fair market value;

(b) where a corporation has disposed of anything,

(i) to a person with whom it was not dealing at arm's length for no proceeds or for proceeds less than the fair market value thereof at the time it so disposed of it, or

(ii) to any person by way of gift *inter vivos*,

it shall be deemed to have received proceeds of disposition therefor equal to that fair market value; and

(c) where a corporation has acquired property by way of gift, bequest or inheritance, it shall be deemed to have acquired the property at its fair market value at the time it so acquired it. R.S.O. 1970, c. 91, s. 28 (1, 2), *amended*.

(2) Where a corporation carrying on business in Canada ^{Idem} has paid or agreed to pay, to a non-resident person with whom it was not dealing at arm's length as price, rental, royalty or other payment for or for the use or reproduction of any property, or as consideration for the carriage of goods or passengers or for other services, an amount greater than the amount, in this subsection referred to as "the reasonable amount", that would have been reasonable in the circumstances if the non-resident person and the corporation had been dealing at arm's length, the reasonable amount shall, for the purpose of computing the corporation's income from the business, be deemed to have been the amount that was paid or is payable therefor. R.S.O. 1970, c. 91, s. 28 (3).

(3) Where a non-resident person had paid, or agreed to ^{Idem} pay, to a corporation carrying on business in Canada with whom he was not dealing at arm's length as price, rental, royalty or other payment for or for the use or reproduction of any property, or as consideration for the carriage of goods or passengers or for other services, an amount less than the amount, in this subsection referred to as "the reasonable amount", that would have been reasonable in the circumstances if the non-resident person and the corporation had been dealing at arm's length, the reasonable amount shall, for the purpose of computing the corporation's income from the business, be deemed to have been the amount that was paid or is payable therefor. R.S.O. 1970, c. 91, s. 28 (4).

(4) Where property of a corporation has been appropriated ^{Idem} in any manner whatever to, or for the benefit of, a shareholder, for no consideration or for a consideration below the fair market value, if the sale thereof at the fair market value would have increased the corporation's income for a fiscal year, for the purpose of determining the corporation's income for the fiscal year, it shall be deemed to have sold the property during the fiscal year and to have received therefor the fair market value thereof. R.S.O. 1970, c. 91, s. 28 (5).

(5) Where property of a corporation has been appropriated ^{Idem} in any manner whatever to, or for the benefit of, a shareholder, on the winding-up of the corporation, if the sale thereof at the fair market value immediately prior to the winding-up would have increased the corporation's income for a fiscal year, for the purpose of determining the corporation's income for the fiscal year, it shall be deemed to have sold the property during the fiscal year and to have received therefor the fair market value thereof. R.S.O. 1970, c. 91, s. 28 (6).

67.—(1) Where a corporation has received a security or other ^{Security} right or a certificate of indebtedness or other evidence of ^{in satis-} indebtedness wholly or partially as, in lieu of payment of, or ^{faction of} ^{income} ^{debt}

in satisfaction of, a debt that was then payable, the amount of which debt would be included in computing its income if it had been paid, the value of the security, right or indebtedness or the applicable portion thereof shall, notwithstanding the form or legal effect of the transaction, be included in computing its income for the fiscal year in which it was received. R.S.O. 1970, c. 91, s. 34 (1).

Idem

(2) Where a security or other right or a certificate of indebtedness or other evidence of indebtedness has been received by a corporation wholly or partially as, in lieu of payment of, or in satisfaction of, a debt before the debt was payable, but was not itself payable or redeemable before the day on which the debt was payable, it shall, for the purpose of subsection 1, be deemed to have been received when the debt became payable by the person holding it at that time. R.S.O. 1970, c. 91, s. 34 (2).

Idem

(3) This section is enacted for greater certainty and shall not be construed as limiting the generality of the other provisions of this Part by which amounts are required to be included in computing income. R.S.O. 1970, c. 91, s. 34 (3).

Bond
conver-
sion

68. Where a bond of a debtor is acquired by a corporation in exchange for another bond of the same debtor and,

- (a) the terms on which the bond for which it was exchanged was issued conferred upon the holder thereof the right to make the exchange; and
- (b) the amount payable to the holder of the bond on its maturity is the same as the amount that would have been payable to the holder of the bond for which it was exchanged on the maturity of that bond,

the cost of the bond so acquired and the sale price of the bond for which it was exchanged shall be deemed to be,

- (c) in the event that the bond that was exchanged was property described in an inventory of a business carried on by the corporation, the amount at which it had been valued at the end of the last complete fiscal year of the business preceding the exchange; or
- (d) in any other event, the adjusted cost base to the corporation of the bond that was exchanged, immediately before the exchange. R.S.O. 1970, c. 91, s. 35.

69.—(1) Where an amount in respect of a deductible outlay or expense that was owing by a corporation to a person with whom the corporation was not dealing at arm's length at the time the outlay or expense was incurred and at the end of the second fiscal year following the fiscal year in which the outlay or expense was incurred, is unpaid at the end of that second fiscal year, either,

- (a) the amount so unpaid shall be included in computing the corporation's income for the third fiscal year following the fiscal year in which the outlay or expense was incurred; or
- (b) where the corporation and that person have filed an agreement in prescribed form on or before the day on or before which the corporation is required by section 145 to file its return for the third succeeding fiscal year, for the purposes of this Act the following rules apply:
 - (i) the amount so unpaid shall be deemed to have been paid by the corporation and received by that person on the first day of the said third fiscal year, and section 153 of the *Income Tax Act* (Canada), except subsection 3 thereof, is applicable to the extent that it would apply if that amount were being paid to that person by the corporation, and
 - (ii) that person shall be deemed to have made a loan to the corporation on the first day of the said third fiscal year in an amount equal to the amount so unpaid minus the amount, if any, deducted or withheld therefrom by the corporation on account of that person's tax for the said third fiscal year. R.S.O. 1970, c. 91, s. 29 (1).

(2) Where an amount in respect of a deductible outlay or expense that was owing by a corporation to a person with whom the corporation was not dealing at arm's length is unpaid at the time when the corporation is wound up, and the corporation is wound up before the end of the second fiscal year following the fiscal year in which the outlay or expense was incurred, the amount so unpaid shall be included in computing the corporation's income for the fiscal year in which it is wound up. R.S.O. 1970, c. 91, s. 29 (2).

(3) Where an amount in respect of a deductible outlay or expense that was owing by a corporation to a person as salary, wages or other remuneration in respect of an office

or employment is unpaid at the end of the first fiscal year following the fiscal year in which the outlay or expense was incurred, either,

- (a) the amount so unpaid shall be included in computing the corporation's income for the second fiscal year following the fiscal year in which the outlay or expense was incurred; or
- (b) where the corporation and that person have filed an agreement in prescribed form on or before the day on or before which the corporation is required by section 145 to file its return for the first fiscal year following the fiscal year in which the outlay or expense was incurred, for the purposes of this Act the following rules apply:

- (i) the amount so unpaid shall be deemed to have been paid by the corporation and received by that person on the first day of the said second fiscal year, and section 153 of the *Income Tax Act* (Canada), except subsection 3 thereof, is applicable to the extent that it would apply if that amount were being paid to that person by the corporation; and
- (ii) that person shall be deemed to have made a loan to the corporation on the first day of the said second fiscal year in an amount equal to the amount so unpaid minus the amount, if any, deducted or withheld therefrom by the corporation on account of that person's tax for the said second fiscal year. R.S.O. 1970, c. 91, s. 29 (3).

1970-71,
c. 63 (Can.)

Where
unpaid
at time
corporation
wound up

(4) Where an amount in respect of a deductible outlay or expense described in subsection 3 that was owing by a corporation is unpaid at the time when the corporation is wound up, and the corporation is wound up before the end of the first fiscal year following the fiscal year in which the outlay or expense was incurred, the amount so unpaid shall be included in computing the corporation's income for the fiscal year in which it is wound up. R.S.O. 1970, c. 91, s. 29 (4).


Application

(5) Subsection 1 does not apply in any case where subsection 3 applies and subsection 2 does not apply in any case where subsection 4 applies. R.S.O. 1970, c. 91, s. 29 (5).

Late
filing

(6) Where, in respect of an amount described in subsection 1 or 3 that was owing by a corporation to a person, an agreement in a form prescribed for the purposes of this

section is filed after the day on or before which the agreement is required to be filed for the purposes of clause *b* of subsection 1 or clause *b* of subsection 3, as the case may be, both clauses *a* and *b* of subsection 1 or 3, as the case may be, apply in respect of the said amount, except that clause *a* of subsection 1 or clause *a* of subsection 3, as the case may be, shall be read and construed as requiring 25 per cent only of the said amount to be included in computing the corporation's income. R.S.O. 1970, c. 91, s. 29 (6).

 **70.** Where, at any time in a fiscal year, a person who,

Mortgage
foreclosures
and condi-
tional sales
repossessions

- (a) was a mortgagee or other creditor of another person who had previously acquired property; or
- (b) had previously sold property to another person under a conditional sales agreement,

has acquired or reacquired the beneficial ownership of the property in consequence of the other person's failure to pay all or any part of an amount, in this section referred to as the "person's claim", owing by him to the person, the following rules apply,

- (c) there shall be included, in computing the other person's proceeds of disposition of the property, the principal amount of the person's claim plus all amounts each of which is the principal amount of any debt that had been owing by the other person, to the extent that it has been extinguished by virtue of the acquisition or reacquisition, as the case may be;
- (d) any amount paid by the other person after the acquisition or reacquisition, as the case may be, as, on account of or in satisfaction of the person's claim shall be deemed to be a loss of that other person, for his fiscal year in which payment of that amount was made, from the disposition of the property;
- (e) in computing the income of the person for the fiscal year,
 - (i) the amount, if any, claimed by him under subclause iii of clause *a* of subsection 1 of section 42 in computing his gain for the immediately preceding fiscal year from the disposition of the property, and
 - (ii) the amount, if any, deducted under clause *p* of subsection 1 of section 24 in computing the

income of the person for the immediately preceding fiscal year in respect of the property,

shall be deemed to be nil;

- (f) the person shall be deemed to have acquired or reacquired, as the case may be, the property at the amount, if any, by which the principal amount of the person's claim exceeds the amount described in subclause i or ii of clause *e*, as the case may be, in respect of the property;
- (g) the adjusted cost base to the person of the person's claim shall be deemed to be nil; and
- (h) in computing the person's income for the fiscal year or a subsequent fiscal year, no amount is deductible in respect of the person's claim by virtue of clause *n* or *r* of subsection 1 of section 24. *New.*

Debtor's
gain on
settlement
of debts

71. Where at any time in a fiscal year a debt or other obligation of a corporation to pay an amount is settled or extinguished after 1971 without any payment by it or by the payment of an amount less than the principal amount of the debt or obligation, as the case may be, the amount by which the lesser of the principal amount thereof and the amount for which the obligation was issued by the corporation exceeds the amount so paid, if any, shall be applied,

(a) to reduce, in the following order, the corporation's,

- (i) non-capital losses,
- (ii) net capital losses, and
- (iii) restricted farm losses,

for preceding fiscal years, to the extent of the amount of those losses that would otherwise be deductible in computing the corporation's taxable income for the fiscal year or a subsequent fiscal year; and

- (b) to the extent that the excess exceeds the portion thereof required to be applied as provided in clause *a*, to reduce in prescribed manner the capital cost to the corporation of any depreciable property and the adjusted cost base to it of any capital property;

unless,

- (c) the corporation is, at that time, a bankrupt within the meaning of section 108;
- (d) the debt or obligation was such that, if interest had been paid by the corporation in respect of it, no deduction would have been permitted by this Part in respect of that interest in computing the corporation's income;
- (e) section 70 is applicable in respect of the debt or obligation; or
- (f) the excess is otherwise required to be included in computing the corporation's income for the fiscal year. *New.*

72. In computing income for the purposes of this Act, no deduction may be made in respect of a disbursement or expense made or incurred in respect of a transaction or operation that, if allowed, would unduly or artificially reduce the income. R.S.O. 1970, c. 91, s. 24 (5). Artificial transaction

73.—(1) Where the result of one or more sales, exchanges, declarations of trust, or other transactions of any kind whatsoever is that a person confers a benefit on a corporation, that person shall be deemed to have made a payment to the corporation equal to the amount of the benefit conferred notwithstanding the form or legal effect of the transactions or that one or more other persons were also parties thereto; and whether or not there was an intention to avoid or evade taxes under this Act, the payment shall be included in computing the income of the corporation. R.S.O. 1970, c. 91, s. 18 (1). Indirect payment or transfer

(2) Where it is established that a sale, exchange or other transaction was entered into by a corporation and other persons dealing at arm's length *bona fide* and not pursuant to, or as part of, any other transaction and not to effect payment in whole or in part of an existing or future obligation, no party thereto shall be regarded, for the purpose of this section and for the purpose of section 72, as having conferred a benefit on a corporation that was party thereto. R.S.O. 1970, c. 91, s. 18 (2). Arm's length

74. In computing the income of a corporation for a fiscal year there shall be included an amount that is included in computing the income of the corporation under Part XVI of the *Income Tax Act* (Canada) pursuant to section 247 of that Act. R.S.O. 1970, c. 91, s. 17(o). Dividend stripping
1970-71, c. 63,
(Can.)

SUBDIVISION F—AMOUNTS NOT INCLUDED
IN COMPUTING INCOME

Amounts not
included in
income

75.—(1) There shall not be included in computing the income of a corporation for a fiscal year,

Federal
grants

(a) an amount paid to a corporation on account of a grant under the *Area Development Incentives Act* (Canada), the *Industrial Research and Development Incentives Act* (Canada), the *Regional Development Incentives Act* (Canada) or the *Employment Support Act* (Canada); R.S.O. 1970, c. 91, s. 22 (d).

War Savings
Certificate

(b) an amount received under a War Savings Certificate issued by His Majesty in right of Canada or under a similar savings certificate issued by His Majesty in right of Newfoundland before April 1, 1949; R.S.O. 1970, c. 91, s. 22 (a).

Ship or
aircraft
of non-
residents

(c) the income for the fiscal year of a non-resident corporation earned in Canada from the operation by it of a ship or aircraft in international traffic, if the country where that corporation resided grants substantially similar relief for the fiscal year to a corporation resident in Canada; R.S.O. 1970, c. 91, s. 22 (b).

Prospecting

(d) an amount in respect of the receipt of a share that section 37 provides is not to be included; R.S.O. 1970, c. 91, s. 22 (c).

Interest on
certain bonds
and
debentures

(e) interest received by a corporation resident in Canada, in this clause referred to as the "parent corporation", on a bond, debenture, bill, note, mortgage, hypothec or similar obligation received by it as consideration for the disposition by it, before June 18, 1971, of,

(i) a business carried on by it in a country other than Canada, or

(ii) all of the shares of a corporation that carried on a business in a country other than Canada, and such of the debts and other obligations of that corporation as were, immediately before the disposition, owing to the parent corporation,

if,

(iii) the business was of a public utility or public service nature,

- (iv) the business or the property described in sub-clause ii, as the case may be, was disposed of to a person or persons resident in that country, and
- (v) the obligation received by the parent corporation was issued by or guaranteed by the government of that country or any agent thereof. *New.*

(2) (a) Subject to the prescribed conditions, there shall not be included in computing the income of a corporation income derived from the operation of a mine during the period of thirty-six months commencing with the day on which the mine came into production. R.S.O. 1970, c. 91, s. 57 (4). Exemption for three years

(b) In clause *a*,

Interpretation

- (i) "mine" does not include an oil well, gas well, brine well, sand pit, gravel pit, clay pit, shale pit or stone quarry, other than a deposit of oil shale or bituminous sand, but does include a well for the extraction of material from a sylvite deposit and all such wells, the material produced from which is sent to a single plant for processing, shall be deemed to be one mine, and
- (ii) "production" means production in reasonable commercial quantities. R.S.O. 1970, c. 91 s. 57 (5).

SUBDIVISION G—CORPORATIONS RESIDENT IN CANADA AND THEIR SHAREHOLDERS

76.—(1) In computing the income of a corporation for a fiscal year, there shall be included all amounts received by the corporation in the fiscal year from corporations resident in Canada as, on account or in lieu of payment of, or in satisfaction of taxable dividends. R.S.O. 1970, c. 91, s. 17 (a). Taxable dividends

(2) Where, by virtue of subsection 4 of section 58, there is included in computing the corporation's income for a fiscal year a dividend received by some other person, for the purposes of this section and section 100, the dividend shall be deemed to have been received by the corporation. *New* Certain dividends deemed received by corporation

77.—(1) Where at any particular time after 1971 a dividend becomes payable by a Canadian corporation to shareholders of any class of shares of its capital stock, Dividend out of undistributed surplus 1971 capital surplus

1970-71, c. 63
(Can.)

- (a) such dividend shall be deemed to be payable out of the corporation's tax-paid undistributed surplus on hand or out of its 1971 capital surplus on hand to the extent and in the same manner that such dividend is deemed to be payable out of the corporation's tax-paid undistributed surplus on hand or 1971 capital surplus on hand, as the case may be, for purposes of subsection 1 of section 83 of the *Income Tax Act* (Canada);
- (b) no part of the dividend shall be included in computing the income of any shareholder of the corporation; and
- (c) in computing the adjusted cost base to any shareholder of the corporation of any share of the capital stock of the corporation owned by him, there shall be deducted in respect of the dividend an amount as provided by subclause i of clause a of subsection 2 of section 55.

Capital
dividend

(2) Where at any particular time after 1971 a dividend becomes payable by a private corporation to shareholders of any class of shares of its capital stock,

- (a) the dividend shall be deemed to be a capital dividend to the extent required by subsection 2 of section 83 of the *Income Tax Act* (Canada); and
- (b) no part of the dividend shall be included in computing the income of any shareholder of the corporation.
New.

Deemed
dividend

78.—(1) Where a corporation resident in Canada has at any time after 1971 increased the paid-up capital in respect of the shares of any particular class of its capital stock, otherwise than by,

- (a) payment of a stock dividend;
- (b) a transaction by which,
 - (i) the value of its assets less its liabilities has been increased, or
 - (ii) its liabilities less the value of its assets have been decreased,

by an amount not less than the amount of the increase in the paid-up capital in respect of the shares of the particular class; or

- (c) a transaction by which the paid-up capital in respect of the shares of all other classes of its capital stock has been reduced by an amount not less than the amount of the increase in the paid-up capital in respect of the shares of the particular class,

the corporation shall be deemed to have paid at that time a dividend on the issued shares of the particular class equal to the amount, if any, by which the amount of the increase in the paid-up capital exceeds the aggregate of,

- (d) the amount, if any, of the increase referred to in subclause i of clause *b* or the decrease referred to in subclause ii of clause *b*, as the case may be; and
- (e) the amount, if any, of the reduction referred to in clause *c*,

and a dividend shall be deemed to have been received at that time by each person who held any of the issued shares of the particular class immediately after that time equal to that proportion of the dividend so deemed to have been paid by the corporation that the number of the shares of the particular class held by him immediately after that time is of the number of the issued shares of that class outstanding immediately after that time. R.S.O. 1970, c. 91, s. 55 (7).

(2) Where funds or property of a corporation resident in Canada have at any time after 1971 been distributed or otherwise appropriated in any manner whatever to or for the benefit of the shareholders of any class of shares in its capital stock, on the winding-up, discontinuance or reorganization of its business, the corporation shall be deemed to have paid at that time a dividend on shares of that class equal to the amount, if any, by which,

Distributions
on winding-
up, etc.

- (a) the amount or value of the funds or property distributed or appropriated, as the case may be,

exceeds the lesser of,

- (b) the amount, if any, by which the paid-up capital in respect of the shares of that class immediately before that time is reduced on the distribution or appropriation, as the case may be; and
- (c) the paid-up capital limit of the corporation immediately before that time,

and a dividend shall be deemed to have been received at that time by each person who held any of the issued shares at that

time equal to that proportion of the amount of the excess that the number of the shares of that class held by him immediately before that time is of the number of the issued shares of that class outstanding immediately before that time. R.S.O. 1970, c. 91, s. 55 (1).

Redemption,
etc.

(3) Where at any time after 1971 a corporation resident in Canada has redeemed, acquired or cancelled in any manner whatever, otherwise than by way of a transaction described in subsection 2, any of the shares of any class of its capital stock, the corporation shall be deemed to have paid at that time a dividend on a class of shares comprising the shares so redeemed, acquired or cancelled, equal to,

1970-71, c. 63
(Can.)

- (a) in the case of any such shares in respect of the redemption or acquisition of which the corporation is required to pay tax under section 182 of the *Income Tax Act* (Canada), the amount, if any, by which the paid-up capital in respect of those shares immediately before that time exceeds the paid-up capital limit of the corporation immediately before that time; and
- (b) in the case of any other such shares, the amount, if any, by which the amount paid by the corporation on the redemption, acquisition or cancellation, as the case may be, of those shares exceeds the lesser of,
 - (i) the paid-up capital in respect of those shares immediately before that time, and
 - (ii) the amount, if any, by which the paid-up capital limit of the corporation immediately before that time exceeds the amount that was its paid-up capital in respect of the shares referred to in clause *a* so redeemed, acquired or cancelled at that time,

and a dividend shall be deemed to have been received at that time by each person who held any of those shares at that time equal to the aggregate of,

- (c) that proportion of the excess referred to in clause *a* that the number of those shares held by him immediately before that time and described in that clause is of the total number of those shares described in that clause; and
- (d) that proportion of the excess referred to in clause *b* that the number of those shares held by him immediately before that time and not described in

clause *a* is of the total number of those shares not described in that clause. R.S.O. 1970, c. 91, s. 55 (2).

(4) Where at any time after 1971 a corporation resident in Canada has reduced the paid-up capital in respect of any shares of any class of its capital stock otherwise than by way of a redemption, acquisition or cancellation of those shares or a transaction described in subsection 2,

(a) the corporation shall be deemed to have paid at that time a dividend on shares of that class equal to the amount, if any, by which the amount paid by it on the reduction of the paid-up capital exceeds the paid-up capital limit of the corporation immediately before that time; and

(b) a dividend shall be deemed to have been received at that time by each person who held any of the issued shares at that time equal to that proportion of the amount of the excess referred to in clause *a* that the number of the shares of that class held by him immediately before that time is of the number of the issued shares of that class outstanding immediately before that time.

(5) Where,

(a) the amount of the property distributed or appropriated by a corporation as described in clause *a* of subsection 2; or

(b) the amount paid by a corporation as described in clause *b* of subsection 3 or clause *a* of subsection 4,

Amount
distributed
or paid
where a
share

includes a share of the capital stock of the corporation, for the purposes of subsections 2 to 4 the following rules apply:

(c) in computing that amount at any time, the share shall be valued at an amount equal to the paid-up capital in respect of the share at that time; and

(d) the value of the share shall be included in computing the paid-up capital limit of the corporation immediately before that time.

(6) Subsection 2 or 3, as the case may be, is not applicable,

Application
of subs. 2 or 3

(a) in respect of any transaction or event, if subsection 1 is applicable in respect of that transaction or event; and

- (b) in respect of any purchase by a corporation of any of its shares in the open market, if the corporation acquired those shares in the manner in which shares would normally be purchased by any member of the public in the open market.

When
dividend
payable

(7) A dividend that is deemed by this section to have been paid at a particular time shall be deemed, for the purposes of this Subdivision, to have become payable at that time.
New.

Transfer of
property to
corporation
by control-
ling
shareholder

79.—(1) Where a person has, after 1971, disposed of any property that was a capital property or eligible capital property of the person to a Canadian corporation, and immediately after the disposition owned not less than 80 per cent of the issued shares of each class of the capital stock of the corporation, if the person and the corporation have jointly so elected in prescribed form and within prescribed time the following rules apply:

- (a) the amount that the person and the corporation have agreed upon in their election in respect of the property shall be deemed to be the person's proceeds of disposition of the property and the corporation's cost of the property;
- (b) subject to clause *c*, where the amount that the person and the corporation have agreed upon in their election in respect of the property is less than the fair market value, at the time of the disposition, of the consideration therefor, other than any shares of the capital stock of the corporation or a right to receive any such shares, received by the person, the amount so agreed upon shall, irrespective of the amount actually so agreed upon by them, be deemed to be an amount equal to that fair market value;
- (c) where the amount that the person and the corporation have agreed upon in their election in respect of the property is greater than the fair market value, at the time of the disposition, of the property so disposed of, the amount so agreed upon shall, irrespective of the amount actually so agreed upon, be deemed to be an amount equal to that fair market value;
- (d) where the property was eligible capital property in respect of a business of the person and the amount that, but for this clause, would be the proceeds of disposition thereof is less than the least of,

- (i) twice the person's cumulative eligible capital in respect of the business immediately before disposition,
- (ii) the cost to the person of the property, and
- (iii) the fair market value of the property at the time of disposition,

the amount agreed upon by the person and the corporation in their election in respect of the property shall, irrespective of the amount actually so agreed upon by them, and notwithstanding clauses *b* and *c*, be deemed to be the least of the amounts described in subclauses i to iii inclusive;

- (e) where the property was depreciable property of a prescribed class of the person and the amount that, but for this clause, would be the proceeds of disposition thereof is less than the least of,
 - (i) the undepreciated capital cost to the person of all property of that class immediately before the disposition,
 - (ii) the cost to the person of the property, and
 - (iii) the fair market value of the property at the time of the disposition,

the amount agreed upon by the person and the corporation in their election in respect of the property shall, irrespective of the amount actually so agreed upon by them, and notwithstanding clauses *b* and *c*, be deemed to be the least of the amounts described in subclauses i to iii inclusive;

- (f) the cost to the person of any particular property, other than shares of the capital stock of the corporation or a right to receive any such shares, received by him as consideration for the disposition shall be deemed to be an amount equal to the lesser of,
 - (i) the fair market value of the particular property at the time of the disposition, and
 - (ii) that proportion of the fair market value, at the time of the disposition, of the property disposed of by the person to the corporation that,

- (A) the amount determined under sub-clause i is of,
- (B) the fair market value, at the time of the disposition, of all properties, other than shares of the capital stock of the corporation or a right to receive any such shares, received by the person as consideration for the disposition;
- (g) the cost to the person of any preferred shares of any class of the capital stock of the corporation receivable by him as consideration for the disposition shall be deemed to be the lesser of the fair market value of those shares immediately after the disposition and that proportion of the amount, if any, by which the proceeds of the disposition exceed the fair market value of the consideration, other than shares of the capital stock of the corporation or a right to receive any such shares, received by him for the disposition, that,
 - (i) the fair market value, immediately after the disposition, of those preferred shares of that class,
 is of,
 - (ii) the fair market value, immediately after the disposition, of all preferred shares of the capital stock of the corporation receivable by him as consideration for the disposition;
- (h) the cost to the person of any common shares of any class of the capital stock of the corporation receivable by him as consideration for the disposition shall be deemed to be that proportion of the amount, if any, by which the proceeds of the disposition exceed the aggregate of the fair market value, at the time of the disposition, of the consideration, other than shares of the capital stock of the corporation or a right to receive any such shares, received by him for the disposition and the cost to him of all preferred shares of the capital stock of the corporation receivable by him as consideration for that disposition, that,
 - (i) the fair market value, immediately after the disposition, of those common shares of that class,

is of,

- (ii) the fair market value, immediately after the disposition, of all common shares of the capital stock of the corporation receivable by him as consideration for the disposition; and
 - (i) for greater certainty, where the application of this subsection results in a capital loss of the person from the disposition of any property, subsection 4 is applicable. *New.*
- (2) Where, after 1971,
- (a) any partnership property that was a capital property or eligible capital property of a partnership has been disposed of to a Canadian corporation;
 - (b) immediately after the disposition, not less than 80 per cent of the issued shares of each class of the capital stock of the corporation was partnership property; and
 - (c) the corporation and all the members of the partnership have so elected in respect of the disposition, in prescribed form and within prescribed time,

Transfer of
property to
corporation
from
partnership

clauses *a* to *i* of subsection 1 are applicable in respect of the disposition *mutatis mutandis* as if the partnership were a person resident in Canada who had disposed of the property to the corporation. *New.*

- (3) Where,
- (a) in respect of any disposition of partnership property of a partnership to a corporation, subsection 2 applies;
 - (b) the affairs of the partnership were wound up within sixty days after the disposition; and
 - (c) immediately before the winding-up there was no partnership property other than money or property received from the corporation as consideration for the disposition,

Where
partnership
wound up

the following rules apply:

- (d) the cost to any member of the partnership of any property, other than shares of the capital stock of the corporation or a right to receive any such shares,

received by him as consideration for the disposition of his partnership interest on the winding-up shall be deemed to be the fair market value of the property at the time of the winding-up;

(e) the cost to any member of the partnership of any preferred shares of any class of the capital stock of the corporation receivable by him as consideration for the disposition of his partnership interest on the winding-up shall be deemed to be,

(i) where any common shares of the capital stock of the corporation were also receivable by him as consideration for disposition of the interest, the lesser of,

(A) the fair market value, immediately after the winding-up, of the preferred shares of that class so receivable by him, and

(B) that proportion of the amount, if any, by which the adjusted cost base to him of his partnership interest immediately before the winding-up exceeds the aggregate of the fair market value, at the time of the winding-up, of the consideration, other than shares of the capital stock of the corporation or a right to receive any such shares, received by him for the disposition of the interest, that,

1. the fair market value, immediately after the winding-up, of the preferred shares of that class so receivable by him,

is of,

2. the fair market value, immediately after the winding-up, of all preferred shares of the capital stock of the corporation receivable by him as consideration for the disposition, and

(ii) in any other case, the amount determined under sub-subclause B of subclause i;

(f) the cost to any member of the partnership of any common shares of any class of the capital stock of the corporation receivable by him as consideration for

the disposition of his partnership interest on the winding-up shall be deemed to be that proportion of the amount, if any, by which the adjusted cost base to him of his partnership interest immediately before the winding-up exceeds the aggregate of the fair market value, at the time of the winding-up, of the consideration, other than shares of the capital stock of the corporation or a right to receive any such shares, received by him for the disposition of the interest and the cost to him of all preferred shares of the capital stock of the corporation receivable by him as consideration for the disposition of the interest, that,

- (i) the fair market value, immediately after the winding-up, of the common shares of that class so receivable by him,

is of,

- (ii) the fair market value, immediately after the winding-up, of all common shares of the capital stock of the corporation so receivable by him as consideration for the disposition; and
- (g) the proceeds of disposition of the partnership interest of any member of the partnership shall be deemed to be the cost to him of all shares and property receivable or received by him as consideration for the disposition of the interest plus the amount of any money received by him as consideration for the disposition. *New.*

(4) Where a person has, after 1971, disposed of any capital property of the person to a corporation that, immediately after the disposition, was controlled, directly or indirectly in any manner whatever, by the person or by another person or group of persons by whom the first person was controlled directly or indirectly in any manner whatever, and, but for this subsection, the first person would have had a capital loss therefrom, the following rules apply:

Where capital loss from disposition of property to controlled corporation

- (a) his capital loss therefrom otherwise determined shall be deemed to be nil;
- (b) where, immediately after the disposition, the person owned any common shares of any class of the capital stock of the corporation, in computing the adjusted cost base to him of all common shares of that class owned by him immediately after the disposition

there shall be added that proportion of the amount, if any, by which the adjusted cost base to him, immediately before the disposition, of the property so disposed of exceeds his proceeds of the disposition, that,

- (i) the fair market value, immediately after the disposition, of all common shares of that class so owned by him,

is of,

- (ii) the fair market value, immediately after the disposition, of all common shares of the capital stock of the corporation owned by him immediately after the disposition; and

- (c) where, immediately after the disposition, the person owned no common shares of any class of the capital stock of the corporation, in computing the adjusted cost base to him of all preferred shares of any class of the capital stock of the corporation owned by him at that time, there shall be added that proportion of the amount, if any, by which the adjusted cost base to him, immediately before the disposition, of the property so disposed of exceeds his proceeds of the disposition, that,

- (i) the fair market value, immediately after the disposition, of all preferred shares of that class so owned by him,

is of,

- (ii) the fair market value, immediately after the disposition, of all preferred shares of the capital stock of the corporation owned by him immediately after the disposition. *New.*

Rules where depreciable property transferred to controlled corporation

(5) Where subsection 1 or 2 has been applicable in respect of any disposition of any depreciable property to a corporation, in this subsection referred to as the "transferee", and the capital cost to the transferor of the property exceeds the transferor's proceeds of the disposition, for the purposes of sections 17 and 24 and any regulations made under clause *a* of subsection 1 of section 24,

- (a) the capital cost of the property to the transferee shall be deemed to be the amount that was the capital cost thereof to the transferor; and

- (b) the excess shall be deemed to have been allowed to the transferee in respect of the property under regulations made under clause *a* of subsection 1 of section 24 in computing income for fiscal years before the acquisition by the transferee of the property. R.S.O. 1970, c. 91, s. 32 (3).

80.—(1) Where in the course of a reorganization of the capital of a corporation, a person has, after 1971, disposed of, and the corporation has acquired, category A shares of any class of the capital stock of the corporation, the following rules apply,

Disposition of shares by a shareholder in course of reorganization of capital

- (a) the cost to the person of any property, other than shares of the capital stock of the corporation or a right to receive any such shares, received by him as consideration for the disposition shall be deemed to be its fair market value at the time of the disposition;
- (b) the cost to the person of any category B shares of any class of the capital stock of the corporation receivable by him as consideration for the disposition shall be deemed to be,

- (i) where category A shares were also receivable by him as consideration for the disposition, the lesser of,

(A) the fair market value, immediately after the disposition, of those category B shares of that class, and

(B) that proportion of the amount, if any, by which the adjusted cost base to him, immediately before the disposition, of the category A shares so disposed of exceeds the fair market value of the consideration for the disposition, other than shares of the capital stock of the corporation or a right to receive any such shares, received by him from the corporation, that,

1. the fair market value, immediately after the disposition, of those category B shares of that class,

is of,

2. the fair market value, immediately after the disposition, of all category B shares of the capital stock of the corporation receivable by him as consideration for the disposition, and

(ii) in any other case, the amount determined under sub-subclause B of subclause i;

(c) the cost to the person of any category A shares of any class of the capital stock of the corporation receivable by him as consideration for the disposition shall be deemed to be that proportion of the amount, if any, by which the adjusted cost base to him, immediately before the disposition, of the category A shares so disposed of exceeds the aggregate of the fair market value of the consideration, other than shares of the capital stock of the corporation or a right to receive any such shares, received by him from the corporation as consideration for the disposition and the cost to him of all category B shares of the capital stock of the corporation receivable by him as consideration for the disposition, that,

(i) the fair market value, immediately after the disposition, of the category A shares of that class receivable by him as consideration for the disposition,

is of,

(ii) the fair market value, immediately after the disposition, of all category A shares of the capital stock of the corporation receivable by him as consideration for the disposition; and

(d) his proceeds of the disposition of the shares shall be deemed to be the cost to him of all shares and other property receivable or received by him as consideration for the disposition of the shares plus the amount of any money received by him on the disposition. *New.*

Interpre-
tation

(2) For the purposes of this section,

(a) "category A share" means a common share where the person has disposed of a common share in the course of a reorganization, and means a preferred

share where the person has disposed of a preferred share in the course of a reorganization; and

- (b) “category B share” means a preferred share where a category A share means a common share, and means a common share where a category A share means a preferred share. *New.*

(3) This section is not applicable in any case where any of ^{Application} subsections 1 to 3 of section 79 are applicable. *New.*

81.—(1) In this section, an amalgamation means a merger ^{Amalgama-}_{tions} of two or more corporations each of which was, immediately before the merger, a Canadian corporation, each of which corporations is referred to in this section as a “predecessor corporation”, to form one corporate entity, in this section referred to as the “new corporation”, in such manner that,

- (a) all of the property of the predecessor corporations immediately before the merger becomes property of the new corporation by virtue of the merger;
- (b) all of the liabilities of the predecessor corporations immediately before the merger become liabilities of the new corporation by virtue of the merger; and
- (c) all of the shareholders, except any predecessor corporation, of the predecessor corporations immediately before the merger become shareholders of the new corporation by virtue of the merger,

otherwise than as a result of the acquisition of property of one corporation by another corporation, pursuant to the purchase of such property by the other corporation or as a result of the distribution of such property to the other corporation upon the winding-up of the corporation. R.S.O. 1970, c. 91, s. 66 (1).

(2) Where there has been an amalgamation of two or ^{Rules}_{applicable} more corporations after 1971 the following rules apply,

- (a) for the purposes of this Act, the corporate entity ^{Fiscal}_{year} formed as a result of the amalgamation shall be deemed to be a new corporation the first fiscal year of which shall be deemed to have commenced at the time of the amalgamation, and a fiscal year of a predecessor corporation that would otherwise have ended after the amalgamation shall be deemed to have ended immediately before the amalgamation; R.S.O. 1970, c. 91, s. 66 (2) par. 1.

Inventory

- (b) for the purpose of computing the income of the new corporation for its first fiscal year, where the property described in the inventory, if any, of the new corporation at the commencement of that fiscal year includes,
 - (i) property that was described in the inventory of a predecessor corporation at the end of the fiscal year of the predecessor corporation that ended immediately before the amalgamation, which fiscal year of a predecessor corporation is referred to in this section as its "last fiscal year", or
 - (ii) property that would have been described in the inventory of the predecessor corporation at the end of its last fiscal year if its income for that fiscal year had not been computed in accordance with the method authorized by subsection 1 of section 31,

the property so included shall be deemed to have been acquired by the new corporation at the commencement of its first fiscal year for an amount determined in accordance with section 15 as the value thereof for the purpose of computing the income of the predecessor corporation for its last fiscal year, except that where the income of the predecessor corporation for its last fiscal year was computed in accordance with the method authorized by subsection 1 of section 31, the amount so determined shall be deemed to be nil; R.S.O. 1970, c. 91, s. 66 (2) par. 2.

Method adopted for computing income

- (c) where the method adopted by the new corporation for computing its income for a fiscal year from a business is not the same as the method adopted by a predecessor corporation for computing its income for its last fiscal year or a previous fiscal year, in computing the income of the new corporation for that fiscal year from the business,
 - (i) there shall be included any amount received by it in that fiscal year in payment of or on account of a debt owing to the predecessor corporation that would, if it had been received by the predecessor corporation in its last fiscal year, have been included in computing the income of the predecessor corporation for that fiscal year, and

- (ii) there may be deducted any amount paid by it in that fiscal year in payment of or on account of a debt owing by the predecessor corporation that would, if it had been paid by the predecessor corporation in its last fiscal year, have been deductible in computing the income of the predecessor corporation for that fiscal year; R.S.O. 1970, c. 91, s. 66 (2) par. 3.
- (d) for the purposes of sections 17 and 24 and any ^{Depre-}regulations made under clause *a* of subsection 1 of ^{ciable}property section 24,
- (i) where depreciable property of a prescribed class has been acquired by the new corporation from a predecessor corporation, the capital cost of the property to the new corporation shall be deemed to be the amount that was the capital cost thereof to the predecessor corporation, and
 - (ii) in determining the undepreciated capital cost to the new corporation of depreciable property of a prescribed class at any time,
 - (A) there shall be added to the capital cost to the new corporation of depreciable property of that class acquired before that time the undepreciated capital cost to each of the predecessor corporations of property of that class immediately before the amalgamation,
 - (B) there shall be subtracted from the capital cost to the new corporation of depreciable property of that class acquired before that time the capital cost to the new corporation of property of that class acquired by virtue of the amalgamation,
 - (C) a reference in subclause ii of clause *a* of subsection 4 of section 17 to amounts that would have been allowed to a corporation in respect of transferred property, at the rate that was allowed to the corporation in respect of property of a prescribed class, shall be construed as including a reference to amounts that would have been allowed to a prede-

cessor corporation in respect of that property at the rate that was allowed to the predecessor corporation in respect of property of that prescribed class, and

- (D) where depreciable property that is deemed by subsection 6 of section 39 to be a separate prescribed class has been acquired by the new corporation from a predecessor corporation, the property shall continue to be deemed to be of that same separate prescribed class; R.S.O. 1970, c. 91, s. 66 (2) par. 4.

Capital
property

- (e) where any capital property, other than depreciable property, has been acquired by the new corporation from a predecessor corporation, the cost of the property to the new corporation shall be deemed to be the amount that was the adjusted cost base thereof to the predecessor corporation immediately before the amalgamation; *New*.

Cumulative
eligible
capital

- (f) for the purposes of computing the cumulative eligible capital of the new corporation at any time in respect of a business, where a predecessor corporation carried on a business that is carried on by the new corporation the amount of the cumulative eligible capital of the predecessor corporation immediately before the amalgamation in respect of that business shall be added to the amount determined under subclause i of clause *a* of subsection 4 of section 18 in respect thereof; *New*.

Reserves

- (g) for the purpose of computing the income of the new corporation for a fiscal year,
- (i) any amount that has been deducted as a reserve in computing the income of a predecessor corporation for its last fiscal year shall be deemed to have been deducted as a reserve in computing the income of the new corporation for a fiscal year immediately preceding its first fiscal year, and
 - (ii) any amount deducted under clause *r* of subsection 1 of section 24 in computing the income of a predecessor corporation for its last fiscal year or a previous fiscal year shall be deemed to have been deducted thereunder in comput-

ing the income of the new corporation for a fiscal year immediately preceding its first fiscal year; R.S.O. 1970, c. 91, s. 66 (2) par. 5.

(h) for the purpose of computing a deduction from the ^{Debts} income of the new corporation for a fiscal year under clause *n* or *r* of subsection 1 of section 24 or section 35, where any debt owing to a predecessor corporation,

(i) that was included in computing the income of the predecessor corporation for its last fiscal year or a previous fiscal year, or

(ii) that arose from a loan made in the ordinary course of business by the predecessor corporation, part of whose ordinary business was the lending of money,

has, by virtue of the amalgamation, been acquired by the new corporation, the amount thereof shall be deemed to be a debt owing to the new corporation that was included in computing the income of the new corporation for a previous fiscal year or that arose from a loan so made by it, as the case may be; R.S.O. 1970, c. 91, s. 66 (2) par. 6.

(i) for the purpose of computing a deduction from the ^{Special reserve} income of the new corporation for a fiscal year under clause *p* of subsection 1 of section 24, any amount included in computing the income of a predecessor corporation from a business for its last fiscal year or a previous fiscal year in respect of property sold in the course of the business shall be deemed to have been included in computing the income of the new corporation from the business for a previous fiscal year in respect thereof; R.S.O. 1970, c. 91, s. 66 (2) par. 10.

(j) for the purpose of computing a deduction from the ^{Idem} income of the new corporation for a fiscal year under clause *o* of subsection 1 of section 24 or section 34, any amount included in computing the income of a predecessor corporation from a business for its last fiscal year or a previous fiscal year by virtue of clause *a* of subsection 1 of section 16 shall be deemed to have been included in computing the income of the new corporation from the business for a previous fiscal year by virtue thereof; R.S.O. 1970, c. 91, s. 66 (2) par. 14.

Scientific
research

- (*k*) for the purpose of section 39, any expenditure of a capital nature on scientific research made by a predecessor corporation in its last fiscal year or a previous fiscal year that would have been deductible by the predecessor corporation by virtue of clause *b* of subsection 1 of section 39 in computing its income for its last fiscal year shall, to the extent that such expenditure was not deducted by the predecessor corporation, be deemed to be an expenditure of a capital nature on scientific research made in Canada by the new corporation in its first fiscal year; R.S.O. 1970, c. 91, s. 66 (2) par. 11.

Proceeds
not due
until
after
end of
year

- (*l*) for the purpose of computing the income of the new corporation for its first fiscal year and any subsequent fiscal year, any amount claimed under subclause iii of clause *a* of subsection 1 of section 42 in computing a predecessor corporation's gain for its last fiscal year from the disposition of any property shall be deemed,

(i) to have been claimed under that subclause in computing the new corporation's gain for a fiscal year immediately preceding its first fiscal year from the disposition of that property by it before its first fiscal year, and

(ii) to be the amount determined under subclause *i* of clause *a* of subsection 1 of section 42 in respect of that property; *New*.

Outlays
made
pursuant
to
warranty

- (*m*) for the purpose of section 44, any outlay or expense made or incurred by the new corporation in a fiscal year, pursuant to or by virtue of an obligation described in that section incurred by a predecessor corporation, that would, if the outlay or expense had been made or incurred by the predecessor corporation in that fiscal year, have been deemed to be a loss of the predecessor corporation for that fiscal year from the disposition of a capital property shall be deemed to be a loss of the new corporation for that fiscal year from the disposition of a capital property; *New*.

Expiry
of options
previously
granted

- (*n*) for the purpose of subsection 2 of section 51 any option granted by a predecessor corporation that expires after the amalgamation shall be deemed to have been granted by the new corporation, and any proceeds received by the predecessor corporation for the granting of the option shall be deemed to have been received by the new corporation therefor; *New*.

- (o) for the purpose of computing a deduction from the income of the new corporation for a fiscal year under section 61, any amount that has been included in computing the income of a predecessor corporation for its last fiscal year or a previous fiscal year by virtue of subsection 1 or 3 of section 59, or by virtue of subsection 15 or 16 of section 58 of *The Corporations Tax Act* as it read in its application to fiscal years prior to 1972, shall be deemed to have been included in computing the income of the new corporation for a previous fiscal year by virtue thereof; *New*. Consideration
for resource
property
disposition

R.S.O. 1970.
c. 91
- (p) for the purpose of computing the tax-paid undistributed surplus on hand of the new corporation at any time, where a predecessor corporation had tax-paid undistributed surplus on hand immediately before the amalgamation the amount thereof shall be added to the aggregate of the amounts determined under subclause i to iii of clause *k* of subsection 1 of section 83; *New*. Tax-paid
undistri-
buted
surplus
on hand
- (q) for the purpose of computing the 1971 capital surplus on hand of the new corporation at any time, there shall be added to the aggregate of the amounts determined under subclauses i to iv of clause *l* of subsection 1 of section 83 the amount, if any, by which, 1971
capital
surplus
on hand
- (i) the aggregate of amounts each of which is the 1971 capital surplus on hand, if any, of a predecessor corporation immediately before the amalgamation,
- exceeds,
- (ii) the aggregate of amounts each of which is the paid-up capital deficiency, if any, of a predecessor corporation immediately before the amalgamation; *New*.
- (r) for the purpose of computing the paid-up capital deficiency of the new corporation at any time, there shall be added to the aggregate of the amounts determined under subclauses i to iv of clause *d* of subsection 1 of section 83 the amount, if any, by which, Paid-up
capital
deficiency
- (i) the aggregate of amounts each of which is the paid-up capital deficiency, if any, of a

predecessor corporation immediately before the amalgamation,

exceeds,

- (ii) the aggregate of amounts each of which is the 1971 capital surplus on hand, if any, of a predecessor corporation immediately before the amalgamation; *New*.

Idem

- (s) for the purpose of computing the 1971 capital surplus on hand or the paid-up capital deficiency, as the case may be, of the new corporation, in determining any amount under subclause ii or vii of clause 1 of subsection 1 of section 83 any capital property owned by a predecessor corporation on December 31, 1971 that was acquired by the new corporation by virtue of the amalgamation shall be deemed to have been acquired by the new corporation before 1972 at an actual cost to it equal to the actual cost of the property to the predecessor corporation; *New*.

Charitable donations

- (t) for the purposes of clauses *a* and *b* of subsection 1 of section 98, gifts made by a predecessor corporation in its last fiscal year shall, to the extent that they were not deductible in computing its taxable income for that fiscal year, be deemed to have been made by the new corporation in a fiscal year immediately preceding its first fiscal year; R.S.O. 1970, c. 91, s. 66 (2) par. 7.

Losses

- (u) for the purpose of section 99, a non-capital loss, net capital loss or restricted farm loss of a predecessor corporation for a fiscal year is not deductible in computing the taxable income of the new corporation; R.S.O. 1970, c. 91, s. 66 (2) par. 8.

Taxable dividends

- (v) for the purposes of subsections 3 and 4 of section 100, where a share owned by a predecessor corporation has, by virtue of the amalgamation, been acquired by the new corporation any taxable dividend received on the share by the predecessor corporation that was deductible from the predecessor corporation's income for a fiscal year under section 100 shall be deemed to be a taxable dividend received by the new corporation that was deductible from the new corporation's income for a fiscal year under section 100; *New*.

Capital dividend account

- (w) in the case of a new corporation that is a private corporation, for the purposes of computing the

capital dividend account of the new corporation at any particular time,

- (i) one-half of the amount of any capital gain and one-half of the amount of any capital loss of any predecessor private corporation for any fiscal year commencing after it last became a private corporation and ending after 1971 and either before or at the time of the amalgamation shall, in the case of a capital gain, be included, and in the case of a capital loss, be deducted,
 - (ii) any amount that would, if the amalgamation had not occurred but if any fiscal year of a predecessor corporation that would otherwise have ended next after the amalgamation had ended immediately before the amalgamation, have been required by any of subclauses ii to iv of clause *b* of subsection 1 of section 83 to be included in computing the predecessor corporation's capital dividend account immediately after the amalgamation shall be included, and
 - (iii) any capital dividend that became payable by any predecessor corporation after it last became a private corporation and before the amalgamation shall be deducted; *New.*
- (x) in the case of a new corporation that is a mutual ^{Mutual} fund _{fund} corporation, ^{corporation}
- (i) for the purpose of computing its capital gains dividend account at any time, where a predecessor mutual fund corporation had a capital gains dividend account immediately before the amalgamation the amount thereof shall be added to the amount determined under section 109, and
 - (ii) for the purpose of computing its refundable capital gains tax on hand at the end of any fiscal year, where a predecessor mutual fund corporation had refundable capital gains tax on hand immediately before the amalgamation the amount thereof shall be added to the amount determined under section 109; *New.*
- (y) for the purpose of section 192 of the *Income Tax Act* ^{Application of 1970-71, c. 63 (Can.)} (Canada) except subsection 11 thereof, where a cor- ^{Pt. VII}

poration was controlled by a predecessor corporation immediately before the amalgamation and has, by virtue of the amalgamation, become controlled by the new corporation, the new corporation shall be deemed to have acquired control of the corporation so controlled at the time control thereof was acquired by the predecessor corporation; *New*.

Designated
surplus

1970-71, c. 63
(Can.)

(z) for the purpose of computing the designated surplus of the new corporation at any particular time, there shall be added to the aggregate of the amounts determined under subparagraphs i and ii of paragraph *a* of subsection 13 of section 192 of the *Income Tax Act* (Canada) or under subparagraphs i to iii of paragraph *b* of subsection 13 of section 192 of the *Income Tax Act* (Canada), as the case may be, the aggregate of amounts each of which is an amount in respect of a predecessor corporation, equal to,

(i) in any case where the predecessor corporation was, immediately before the amalgamation, controlled by a corporation that, immediately after the amalgamation and thereafter without interruption until the particular time, controlled the new corporation, its designated surplus immediately before the amalgamation, and

(ii) in any other case, the amount that its designated surplus would have been immediately before the amalgamation if control of the predecessor corporation had been acquired by another corporation immediately before the amalgamation; *New*.

1971
undistributed
income on
hand

(za) for the purpose of computing the 1971 undistributed income on hand of the new corporation at any time, except as that computation applies for the purpose of determining the designated surplus of the new corporation at any time, where a predecessor corporation had 1971 undistributed income on hand immediately before the amalgamation the amount thereof shall be added to the aggregate of the amounts determined under paragraphs *a*, *b* and *c* of subsection 4 of section 196 of the *Income Tax Act* (Canada). *New*.

Where
share of
predecessor
corporation
owned by
another
such
corporation

(3) Where there has been an amalgamation of two or more corporations after 1971 and, immediately before the amalgamation, one of the predecessor corporations, in this subsection referred to as the "owner corporation", owned any share of

the capital stock of another of the predecessor corporations, the following rules apply,

- (a) for the purpose of computing the paid-up capital deficiency of the new corporation at any time, the amount, if any, by which the paid-up capital in respect of the share immediately before the amalgamation exceeds the adjusted cost base of the share to the owner corporation immediately before the amalgamation shall be added to the aggregate of the amounts determined under subclauses i to iv of clause *d* of subsection 1 of section 83; and
- (b) for the purpose of computing the post-1971 undistributed surplus on hand, within the meaning given to that expression by subsection 15 of section 192 of the *Income Tax Act* (Canada), of the new corporation at any time, the amount, if any, by which the adjusted cost base of the share to the owner corporation immediately before the amalgamation exceeds the paid-up capital in respect of the share immediately before the amalgamation shall be added to the aggregate of the amounts determined under paragraphs *a* to *d* of subsection 15 of section 192 of the *Income Tax Act* (Canada). *New.*

(4) Where there has been an amalgamation of two or more corporations after 1971, for the purpose of computing the income of each shareholder, except any predecessor corporation, who owned one or more shares of the capital stock of a predecessor corporation immediately before the amalgamation, the following rules apply,

Rules applicable for computing income of shareholder of predecessor corporation

- (a) where the shareholder owned one or more preferred shares of any class of the capital stock of the predecessor corporation immediately before the amalgamation and received no consideration for the disposition of those shares on the amalgamation other than one or more preferred shares of a class of the capital stock of the new corporation having substantially the same rights and conditions attaching thereto, determined without regard to any voting rights attaching to any shares, as attached to the shares of the predecessor corporation so disposed of by him,
 - (i) the shareholder shall be deemed to have disposed of the preferred shares of the class of the capital stock of the predecessor corporation so disposed of by him on the amalgamation, for proceeds equal to the adjusted cost base

to him of those shares immediately before the amalgamation, and

- (ii) he shall be deemed to have acquired the preferred shares of the class of the capital stock of the new corporation so acquired by him as consideration for the disposition of the preferred shares described in subclause i, at a cost to him equal to the proceeds described in that subclause; and

(b) where,

- (i) the shareholder owned one or more common shares of the capital stock of the predecessor corporation immediately before the amalgamation,
- (ii) none of the persons, except any predecessor corporation, who owned one or more of the common shares of the capital stock of the predecessor corporation immediately before the amalgamation received any consideration for the disposition of those shares on the amalgamation, other than one or more shares of the capital stock of the new corporation, and

(iii) either,

- (A) the persons, except any predecessor corporation, who together owned all of the common shares of the capital stock of the predecessor corporation immediately before the amalgamation together received as consideration for the disposition of those shares on the amalgamation not less than 25 per cent of the shares of each particular class of the issued common shares of the capital stock of the new corporation immediately after the amalgamation,

or,

(B) in any case where,

- 1. the shareholder owned one or more of the common shares of the capital stock of one or more

other predecessor corporations immediately before the amalgamation, and

2. none of the persons, except any predecessor corporation, who owned one or more of the common shares of the capital stock of such one or more other predecessor corporations immediately before the amalgamation received any consideration for the disposition of those shares on the amalgamation other than one or more shares of the capital stock of the new corporation,

the shareholder received on the amalgamation, as consideration for the disposition of the common shares of the capital stock of the predecessor corporation and of such one or more other predecessor corporations owned by him immediately before the amalgamation, not less than 80 per cent of the shares of each particular class of the issued common shares of the capital stock of the new corporation immediately after the amalgamation,

the shareholder,

- (iv) shall be deemed to have disposed of the common shares of the capital stock of the predecessor corporation so disposed of by him on the amalgamation, for proceeds equal to the adjusted cost base to him of those shares immediately before the amalgamation, and
- (v) shall be deemed to have acquired the shares of any particular class of the capital stock of the new corporation so acquired by him as consideration for the disposition of the common shares described in subclause iv, at a cost to him equal to that proportion of the proceeds described in subclause iv that,
 - (A) the fair market value, immediately after the amalgamation, of all shares of that particular class so acquired by him,

is of,

- (B) the fair market value, immediately after the amalgamation, of all of the shares of the capital stock of the new corporation so acquired by him as consideration for the disposition of the common shares described in subclause iv. *New.*

Percentage
of shares
received
by share-
holders of
predecessor
corporation

(5) For the purposes of sub-subclause A of subclause iii of clause *b* of subsection 4, the percentage of the shares of any particular class of the issued common shares of the capital stock of the new corporation immediately after the amalgamation received as described in that sub-subclause by the persons, except any predecessor corporation, who together owned all of the common shares of the capital stock of a particular predecessor corporation shall be deemed to be,

- (a) the percentage thereof otherwise determined,

plus,

- (b) that proportion of the percentage described in clause *a* that,

- (i) the fair market value of the issued common shares of the capital stock of the particular predecessor corporation owned by all other predecessor corporations immediately before the amalgamation,

is of,

- (ii) the fair market value of the issued common shares of the capital stock of the particular predecessor corporation owned by all persons, except any predecessor corporation, immediately before the amalgamation. *New.*

Canadian
exploration
and develop-
ment
expenses

(6) Where there has been an amalgamation of two or more corporations after 1971 and the new corporation is a principal-business corporation within the meaning given to that expression by subsection 12 of section 63, there may be deducted by the new corporation in computing its income for a fiscal year the aggregate of the following amounts in respect of expenses incurred by predecessor corporations, namely, in respect of each individual predecessor corporation, the amount that is the lesser of,

- (a) the aggregate of the Canadian exploration and development expenses, within the meaning given to that expres-

sion by subsection 12 of section 63, incurred by the predecessor corporation to the extent that such expenses,

- (i) were not deductible by the new corporation in computing its income for a previous fiscal year, and were not deductible by the predecessor corporation in computing its income for its last fiscal year or for a previous fiscal year, and
 - (ii) would, but for clause *b* of subsection 1 of section 63, have been deductible by the predecessor corporation in computing its income for its last fiscal year, and
- (b) of the aggregate determined under clause *a*, an amount equal to such part of the income of the new corporation for the year if no deduction were allowed under this section, section 62 or section 63, minus any deductions allowed for the fiscal year by section 100 as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells, or the production of minerals from mines, situated on property in Canada from which the predecessor corporation had, immediately before the amalgamation, a right to take or remove petroleum or natural gas or a right to take or remove minerals,

and no amount in respect of expenses of the predecessor corporation included in the aggregate determined under clause *a* shall where subsection 15 of section 192 of the *Income Tax Act* (Canada) is being applied to determine for the purposes of clause *z* of subsection 2 of this section the designated surplus of the predecessor corporation immediately before the amalgamation, be included in the amount or amounts deductible under any paragraph of subsection 15 of section 192 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 66 (2), par. 13, (3), *amended*. ^{1970-71, c. 63 (Can.)}

82. Where a Canadian corporation, in this section referred to as the "subsidiary", has been wound up after 1971 and all of the issued shares of the capital stock thereof were, immediately before the winding-up, owned by another Canadian corporation, in this section referred to as the "parent", notwithstanding any other provisions of this Act the following rules apply, ^{Winding up of wholly-owned Canadian corporation}

- (a) each property of the subsidiary that was distributed to the parent on the winding-up shall be deemed to have been disposed of by the subsidiary for proceeds equal to,
 - (i) in the case of any property described in subsection 2 of section 59, nil, and
 - (ii) in the case of any other property, the cost amount to the subsidiary of the property immediately before the winding-up;
- (b) the shares of the capital stock of the subsidiary shall be deemed to have been disposed of by the parent on the winding-up for proceeds equal to the greater of,
 - (i) the lesser of the paid-up capital limit of the subsidiary immediately before the winding-up and the amount determined under subclause i of clause *d*, and
 - (ii) the aggregate of amounts each of which is an amount in respect of any share of the capital stock of the subsidiary so disposed of by the parent on the winding-up, equal to the adjusted cost base to the parent of the share immediately before the winding-up;
- (c) the cost to the parent of each property of the subsidiary distributed to the parent on the winding-up shall be deemed to be the amount deemed by clause *a* to be the proceeds of disposition of the property, plus, where the property was a capital property, other than depreciable property, of the subsidiary, the amount determined under clause *d* in respect thereof;
- (d) the amount determined under this clause in respect of each property that was a capital property, other than depreciable property, of the subsidiary is such portion of the amount, if any, by which the aggregate determined under subclause ii of clause *b* exceeds,
 - (i) the amount, if any, by which,
 - (A) the aggregate of amounts each of which is an amount in respect of any property owned by the subsidiary immediately before the winding-up, equal to the cost

amount to the subsidiary of the property immediately before the winding-up, plus the amount of any money of the subsidiary on hand immediately before the winding-up,

exceeds

- (B) the aggregate of amounts each of which is the amount of any debt owing by the subsidiary, or of any other obligation of the subsidiary to pay any amount, that was outstanding immediately before the winding-up,

as is designated by the parent in respect of that capital property in its return for its fiscal year in which the subsidiary was so wound up, except that,

- (ii) in no case shall the amount so designated in respect of any such capital property exceed the amount, if any, by which the fair market value of the property immediately before the winding-up exceeds the cost amount to the subsidiary of the property immediately before the winding-up, and
 - (iii) in no case shall the aggregate of amounts so designated in respect of all such capital properties exceed the amount, if any, by which the aggregate determined under subclause ii of clause *b* exceeds the amount determined under subclause i;
- (e) the subsidiary shall be deemed to have paid and the parent shall be deemed to have received, immediately before the winding-up, a dividend on the shares of the capital stock of the subsidiary equal to the amount, if any, by which the amount determined under subclause i of clause *d* exceeds the paid-up capital limit of the subsidiary immediately before the winding-up; and
- (f) where property that was depreciable property of a prescribed class of the subsidiary has been distributed to the parent on the winding-up and the capital cost to the subsidiary of the property exceeds the amount deemed by clause *a* to be the subsidiary's proceeds of disposition thereof, for the purposes of sections

17 and 24 and any regulations made under clause *a* of subsection 1 of section 24,

- (i) notwithstanding clause *c* the capital cost to the parent of the property shall be deemed to be the amount that was the capital cost thereof to the subsidiary, and
- (ii) the excess shall be deemed to have been allowed to the parent in respect of the property under regulations made under clause *a* of subsection 1 of section 24 in computing income for fiscal years before the acquisition by the parent of the property. *New.*

83.—(1) In this Subdivision,

Interpre-
tation

- (a) “Canadian corporation” at any time means a corporation that was resident in Canada at that time and was,

- (i) incorporated in Canada, or

- (ii) resident in Canada throughout the period commencing June 18, 1971 and ending at that time,

except that for the purposes of subsection 1 of section 77 a corporation that was incorporated in Canada before April 27, 1965 and that was not resident in Canada at the end of 1971 shall be deemed not to be a Canadian corporation; R.S.O. 1970, c. 91, s. 1 (1) par. 8.

- (b) “capital dividend account” of a corporation at any particular time means the amount, if any, by which the aggregate of,

- (i) one-half of the amount, if any, by which the aggregate of the capital gains of the corporation, for fiscal years in the period commencing with the first fiscal year commencing after the time the corporation last became a private corporation and ending after 1971, and ending with the last fiscal year ending before the particular time, exceeds the aggregate of its capital losses for those fiscal years,

(ii) all amounts each of which is an amount in respect of a dividend received by the corporation on a share of the capital stock of another corporation in the period, which amount was, by virtue of subsection 2 of section 77, not included in computing the income of the corporation,

(iii) all amounts each of which is an amount in respect of a business carried on by the corporation at any time in the period, equal to the amount, if any, by which,

(A) the aggregate of the eligible capital amounts, within the meaning given to that expression by subsection 1 of section 18, in respect of the business that became payable to the corporation in the period,

exceeds the aggregate of,

(B) the cumulative eligible capital of the corporation in respect of the business at the commencement of the period, and

(C) one-half of the aggregate of the eligible capital expenditures in respect of the business that were made or incurred by the corporation in the period, and

(iv) the amount, if any, by which,

(A) the proceeds of any life insurance policy received by the corporation in the period and after 1971 in consequence of the death of any person whose life was insured under the policy,

exceeds

(B) all amounts paid as or on account of premiums paid under the policy,

exceeds the aggregate of all capital dividends that became payable by the corporation after the commencement of the period and before the particular time; *New*.

(c) "paid-up capital" in respect of a share of any class of the capital stock of a corporation at any particular

time means an amount equal to the paid-up capital of the corporation at that time that is represented by the shares of the class to which that share belongs, divided by the number of issued shares of that class then outstanding; R.S.O. 1970, c. 91, s. 2 (2) (g).

(d) “paid-up capital deficiency” of a corporation at any particular time means the amount, if any, by which the aggregate of,

- (i) the amounts determined under subclauses v and vi of clause *l* in respect of the corporation,
- (ii) all amounts determined under subclauses vii and viii of clause *l* in respect of the corporation at the particular time,
- (iii) the paid-up capital at the particular time in respect of any shares of the capital stock of the corporation issued after 1971 that were received by a person as described in subsection 1 of section 37, and
- (iv) where subsection 1 or 2 of section 79 has been applicable in respect of any disposition of property to the corporation before the particular time, the amount, if any, by which,

(A) the amount by which any increase, by virtue of the disposition, in the paid-up capital of the corporation exceeds any increase, by virtue of the disposition, in the value of its assets, determined as though the value of any property so transferred were its cost to the corporation for the purposes of this Part and as though this Part were read without reference to subsection 5 of section 79, less its liabilities,

exceeds

(B) the amount by which any increase, by virtue of the disposition, in the paid-up capital of the corporation exceeds any increase, by virtue of the disposition, in the value of its assets less its liabilities,

exceeds the aggregate of,

- (v) the tax equity of the corporation at the end of its 1971 fiscal year,
 - (vi) all amounts determined under subclauses ii, iii, iv and iv.1 of clause *l* in respect of the corporation at the particular time,
 - (vii) all amounts each of which is an amount deemed by subsection 2, 3, or 4 of section 78 to be a dividend paid before the particular time by the corporation on shares of any class, to the extent of the amount, if any, by which the paid-up capital in respect of the shares of that class at the time the dividend was paid exceeds the paid-up capital limit of the corporation at the time the dividend was paid,
 - (viii) all amounts each of which is an amount in respect of a reduction of the paid-up capital of the corporation after its 1971 fiscal year and before the particular time, equal to the amount, if any, by which the amount of the reduction exceeds the aggregate of amounts paid by it to its shareholders on the reduction,
 - (ix) all business losses, within the meaning of *The R.S.O. 1970, c. 91 Corporations Tax Act* as it read in its application to the fiscal years prior to 1972, sustained by the corporation in fiscal years ending before 1972, to the extent that such losses have been deducted under clause *a* of subsection 1 of section 99 from the corporation's income for any fiscal year ending after 1971 and before the particular time, and
 - (x) all amounts each of which is an amount in respect of any purchase by the corporation before the particular time of any shares of its capital stock in respect of which tax under section 181 of the *Income Tax Act* (Canada) ^{1970-71, c. 63 (Can.)} is payable by it, equal to the amount, if any, by which the amount described in paragraph *a* of subsection 1 of section 181 of that Act in respect of the purchase exceeds the amount described in paragraph *b* of subsection 1 of section 181 of that Act in respect thereof; *New*.
- (e) "paid-up capital limit" of a corporation at any particular time means the amount, if any, by which the paid-up capital of the corporation at that time

in respect of all of the shares of its capital stock exceeds the corporation's paid-up capital deficiency at that time; *New*.

(f) "private corporation" at any particular time means a corporation that, at the particular time, was resident in Canada, was not a public corporation, and was not controlled, directly or indirectly in any manner whatever, by one or more public corporations; and for greater certainty for the purposes of determining, at any particular time, when a corporation last became a private corporation,

(i) a corporation that was a private corporation at the commencement of its 1972 fiscal year and thereafter without interruption until the particular time shall be deemed to have last become a private corporation at the end of its 1971 fiscal year, and

(ii) a corporation incorporated after 1971 that was a private corporation at the time of its incorporation and thereafter without interruption until the particular time shall be deemed to have last become a private corporation immediately before the time of its incorporation; *New*.

(g) "public corporation" at any particular time means a corporation that was resident in Canada at the particular time, if,

(i) at the particular time, a class or classes of shares of the capital stock of the corporation were listed on a prescribed stock exchange in Canada,

(ii) at any time after June 18, 1971 and,

(A) before the particular time, it elected in the prescribed manner to be a public corporation, and at the time of the election it complied with the prescribed conditions relating to the number of its shareholders, dispersal of ownership of its shares, public trading of its shares and size of the corporation, or

(B) before a day thirty days before the particular time, it was, by notice in

writing to the corporation, designated by the Minister of National Revenue for Canada to be a public corporation, and at the time it was so designated it complied with the conditions referred to in sub-subclause A,

unless subsequent to the election or designation, as the case may be, and before the particular time, it ceased to be a public corporation by virtue of subclause iii, or

(iii) at any time after June 18, 1971 and before the particular time, it was a public corporation, unless after the time it last became a public corporation and,

(A) before the particular time, it elected in the prescribed manner not to be a public corporation, and at the time it so elected it complied with the prescribed conditions relating to the number of its shareholders, dispersal of ownership of its shares and public trading of its shares, or

(B) before a day thirty days before the particular time, it was, by notice in writing to the corporation, designated by the Minister of National Revenue for Canada not to be a public corporation, and at the time it was so designated it complied with the conditions referred to in sub-subclause A,

in which case it shall be deemed thereupon to have ceased to be a public corporation;
New.

(h) "tax equity" of a corporation at the end of its 1971 fiscal year means the amount, if any, by which the aggregate of all amounts each of which is,

(i) an amount in respect of depreciable property of a prescribed class owned by the corporation immediately after that time, equal to the undepreciated capital cost thereof to the corporation at that time,

- (ii) an amount in respect of any other depreciable property owned by the corporation at that time, equal to the amount by which,

- (A) the actual cost of the property to the corporation, or the amount at which it was deemed to have acquired the property under subsection 8 of section 32 of *The Corporations Tax Act* as it read in its application to the fiscal years prior to 1972, as the case may be,

R.S.O. 1970, c. 91

exceeds

- (B) the aggregate of amounts in respect of the cost of the property that were allowed under clause *a* of subsection 2 of section 23 of *The Corporations Tax Act* as it read in computing the income of the corporation for fiscal years ending before 1972,

- (iii) an amount in respect of any capital property, other than depreciable property, owned by the corporation at that time, equal to its cost to the corporation, determined without reference to the *Corporations Tax Application Rules, 1972*, minus any amounts in respect of the cost thereof deducted in computing the income of the corporation under Part III of *The Corporations Tax Act* as it read in its application to fiscal years prior to 1972,

- (iv) an amount in respect of property owned by the corporation and described in its inventory at that time equal to its value, at that time, for the purposes of computing the income of the corporation under Part III of *The Corporations Tax Act* as it read in its application to fiscal years prior to 1972,

- (v) the amount of any debt owing to the corporation, other than any debt the amount of which was included in computing the corporation's income for its 1971 fiscal year and deducted in computing that income under clause *m* of subsection 1 of section 23 of *The Corporations Tax Act* as it read in its application to fiscal years prior to 1972, or of any other right of the corporation to receive an amount, that was outstanding at that time,

minus such portion thereof as was not but would have been, if the amount had been received by the corporation in its 1971 fiscal year, included in computing its income for that fiscal year,

(vi) the amount of any money of the corporation on hand at that time, or

(vii) such part, if any, of,

(A) the cost to the corporation of any property, other than property described in subclauses i to v, owned by the corporation at that time, or

(B) any expenditure incurred by the corporation, other than an expenditure to acquire property, before that time,

as was not deductible in computing the corporation's income for the 1971 or any previous fiscal year for the purposes of Part III of *The Corporations Tax Act* as it read in its application to that fiscal year, but would have been deductible in computing its income for the 1971 fiscal year if *The Corporations Tax Act* as it read in its application to that fiscal year had been read without reference to any restriction on the quantum of any deduction thereunder,

R.S.O. 1970,
c. 91

exceeds the aggregate of all amounts each of which is,

(viii) the amount of any debt owing by the corporation or of any other obligation of the corporation to pay an amount, that was outstanding at that time, minus such part, if any, thereof as would be, if the amount were paid by the corporation in its 1972 fiscal year, deductible in computing its income for its 1972 fiscal year, or

(ix) the amount of any reserve deducted in computing the corporation's income for its 1971 fiscal year under Part III of *The Corporations Tax Act* as it read in its application to that fiscal year; *New*.

(i) "taxable Canadian corporation" means a corporation that,

1970-71, c. 63
(Can.)

- (i) was a Canadian corporation at the time any dividend in respect of which the expression is relevant was received or deemed to have been received, and
 - (ii) was not, by virtue of a statutory provision, exempt from tax under Part I of the *Income Tax Act* (Canada) for the fiscal year of the corporation during which the dividend was received or deemed to have been received; *New*.
- (j) “taxable dividend” means a dividend in respect of which the corporation paying the dividend has not elected in accordance with section 83 of the *Income Tax Act* (Canada) in respect of the full amount thereof; *New*.
- (k) “tax-paid undistributed surplus on hand” of a corporation at any particular time means the amount, if any, by which the aggregate of,
- (i) the lesser of,
 - (A) the amount that the corporation’s tax-paid undistributed income, within the meaning of the *Income Tax Act* (Canada) as it read in its application to the 1971 fiscal year, would be, if that Act as it so read were applicable to the period consisting of that part of the corporation’s 1972 fiscal year that is before 1972, as of the end of 1971, and
 - (B) the amount that the corporation’s 1971 undistributed income on hand, as determined for purposes of the *Income Tax Act* (Canada), would be on January 1, 1972 if subsection 4 of section 196 of the *Income Tax Act* (Canada) were read without reference to paragraph d thereof,
 - (ii) all amounts on which, before the particular time, tax has been paid by the corporation under Part IX of the *Income Tax Act* (Canada), minus all amounts of that tax, and
 - (iii) all amounts each of which is an amount in respect of a dividend received by the corporation on a share of any class of the

capital stock of another corporation after 1971 and before the particular time, equal to the amount, if any, by which,

- (A) that proportion of such part of the whole dividend paid by the other corporation on all shares of that class at the time it paid the dividend so received by the corporation as was payable out of the other corporation's tax-paid undistributed surplus on hand, that the dividend so received by the corporation is of the whole dividend so paid by the other corporation,

exceeds

- (B) 85/15 of the amount, if any, that the Minister of National Revenue for Canada was, before the particular time, required by subsection 2 of section 196 of the *Income Tax Act* ^{1970-71, c. 63 (Can.)} (Canada) to pay to the corporation in respect of the dividend so received by it,

exceeds the aggregate of such of the dividends that became payable by the corporation before the particular time as were payable out of the corporation's tax-paid undistributed surplus on hand; and, *New*.

- (l) "1971 capital surplus on hand" of a corporation at any particular time means the amount, if any, by which the aggregate of,
 - (i) the tax equity of the corporation at the end of its 1971 fiscal year,
 - (ii) all amounts each of which is an amount in respect of a capital property of the corporation owned by it on December 31, 1971 and disposed of by it after that date and before the particular time, equal to the amount, if any, by which the lesser of its fair market value on the day fixed by proclamation for the purposes of Subdivision B and the corporation's proceeds of disposition thereof exceeds its actual cost to the corporation determined without reference to the *Corporations Tax Application Rules, 1972*,

- (iii) all amounts each of which is an amount in respect of a capital property owned by it at the end of its 1971 fiscal year or acquired by it thereafter and disposed of by the corporation before 1972, equal to the amount, if any, by which the corporation's proceeds of disposition thereof exceeds its actual cost to the corporation determined without reference to the *Corporations Tax Application Rules, 1972*,
- (iv) all amounts each of which is an amount in respect of a dividend received by the corporation on a share of the capital stock of another corporation after 1971 and before the particular time, which amount was, by virtue of subsection 1 of section 77, not included in computing the income of the corporation by virtue of this Subdivision, minus such portion, if any, of that amount as was payable out of the other corporation's tax-paid undistributed surplus on hand, and
- (iv.1) all amounts each of which is an amount in respect of an eligible capital amount, within the meaning given to that expression by subsection 1 of section 18, in respect of a business carried on by the corporation that became payable to the corporation in a fiscal year commencing after the time the corporation last became a private corporation and ending before the particular time, equal to the amount, if any, by which,
 - (A) the amount that the eligible capital amount would be but for the provisions of the *Corporations Tax Application Rules, 1972* relating to section 18, exceeds
 - (B) the eligible capital amount,
 exceeds the aggregate of,
 - (v) the paid-up capital of the corporation at the end of its 1971 fiscal year in respect of all of the shares of its capital stock,
 - (vi) the amount that the corporation's undistributed income on hand, within the meaning given to that expression by the *Income Tax Act* (Canada) as it read in its application to the 1971

fiscal year, would be at the end of its 1971 fiscal year if,

(A) that Act as it so read were read without reference to subparagraph iii of paragraph a of subsection 1 of section 82 thereof, and

(B) references in paragraph a of subsection 1 of section 82 of that Act, except subparagraph A of subparagraph vii, thereof to "1917" were read as references to "1950",

(vii) all amounts each of which is an amount in respect of a capital property, other than depreciable property, of the corporation owned by it on December 31, 1971 and disposed of by it after that date and before the particular time, equal to the amount, if any, by which its actual cost to the corporation determined without reference to the *Corporations Tax Application Rules, 1972* exceeds the greater of the fair market value of the property on the day fixed by proclamation for the purposes of Subdivision B and the corporation's proceeds of disposition thereof,

(viii) all amounts each of which is an amount in respect of a capital property, other than depreciable property, owned by it at the end of its 1971 fiscal year or acquired by it thereafter and disposed of by it before 1972, equal to the amount, if any, by which its actual cost to the corporation determined without reference to the *Corporations Tax Application Rules, 1972* exceeds the corporation's proceeds of disposition thereof, and

(ix) all amounts each of which is an amount in respect of a dividend that became payable by the corporation before the particular time, equal to the portion, if any, thereof payable out of its 1971 capital surplus on hand. *New.*

(1a) In subsection 1, "the day fixed by proclamation for the purposes of Subdivision B" is the day fixed by proclamation for the purposes of Subdivision c of Division B of Part I of the *Income Tax Act* (Canada). *New.*

Day fixed by proclamation 1970-71, c. 63 (Can.)

(2) Notwithstanding clause 1 of subsection 1, a life insurance corporation's 1971 capital surplus on hand at any particular time is the amount, if any, by which the aggregate of,

1971 capital surplus on hand of life insurance corporation

- (a) all amounts each of which is an amount in respect of any property disposed of by the corporation after 1968 and before 1972 that would, if the property had been disposed of after 1972, have been a capital property of the corporation, equal to the amount, if any, by which the proceeds of disposition of the property exceed the cost to the corporation thereof; and
- (b) the amount determined under subclause ii of clause *l* of subsection 1 in respect of the corporation at the particular time,

exceeds the aggregate of,

- (c) all amounts each of which is an amount in respect of any property described in clause *a*, equal to the amount, if any, by which the cost to the corporation of the property exceeds the proceeds of disposition thereof;
- (d) the amount determined under subclause vii of clause *l* of subsection 1 in respect of the corporation at the particular time; and
- (e) all amounts each of which is an amount in respect of a dividend that became payable by the corporation before the particular time, equal to the portion, if any, thereof payable out of its 1971 capital surplus on hand. *New.*

SUBDIVISION H—SHAREHOLDERS OF CORPORATIONS NOT RESIDENT IN CANADA

Dividends
received
from non-
resident
corporation

84. In computing the income for a fiscal year of a corporation resident in Canada, there shall be included any amounts received by the corporation in the fiscal year as, on account or in lieu of payment of, or in satisfaction of, dividends on a share owned by it of the capital stock of a corporation not resident in Canada. *New.*

SUBDIVISION I—PARTNERSHIPS AND THEIR MEMBERS

General
rules

85.—(1) Where a corporation is a member of a partnership, its income, net capital loss, non-capital loss and restricted farm loss, if any, for a fiscal year, or its taxable income earned in Canada for a fiscal year, as the case may be, shall be computed as if,

- (a) the partnership were a separate person resident in Canada;
- (b) the taxation year of the partnership were its fiscal year;
- (c) each partnership activity, including the ownership of property, were carried on by the partnership as a separate person, and a computation were made of the amount of,
 - (i) each taxable capital gain and allowable capital loss of the partnership from the disposition of property, and
 - (ii) each income and loss of the partnership from each other source or from sources in a particular place,
 for each fiscal year of the partnership;
- (d) each income or loss of the partnership for a fiscal year were computed as if no deduction were permitted by subsection 1 of section 62, section 63 or the provisions of the *Corporations Tax Application Rules, 1972* relating to exploration and development expenses;
- (e) each gain of the partnership from the disposition of land used in a farming business of the partnership were computed as if this Act were read without reference to clause *h* of subsection 1 of section 55;
- (f) the amount of the income of the partnership for a fiscal year from any source or from sources in a particular place were the income of the corporation from that source or from sources in that particular place, as the case may be, for the fiscal year of the corporation in which the partnership's fiscal year ends, to the extent of the corporation's share thereof; and
- (g) the amount of the loss of the partnership for a fiscal year from any source or from sources in a particular place were the loss of the corporation from that source or from sources in that particular place, as the case may be, for the fiscal year of the corporation in which the partnership's fiscal year ends, to the extent of the corporation's share thereof.

Construction (2) The provisions of this Subdivision shall be read and construed as if each of the assumptions in clauses *a* to *g* of subsection 1 were made. *New.*

Contribution
of property
to
partnership

86.—(1) Where at any time after 1971 a partnership has acquired property from a person who was, immediately after that time, a member of the partnership, the partnership shall be deemed to have acquired the property at an amount equal to its fair market value at that time and the person shall be deemed to have disposed of the property for proceeds equal to that fair market value. *New.*

Rules
applicable
where
election
by partners

(2) Notwithstanding any other provision of this Act, where at any time after 1971 a Canadian partnership has acquired property from a person who was, immediately after that time, a member of the partnership, if all the persons who immediately after that time were members of the partnership have jointly so elected in respect of the property in the prescribed form and within the prescribed time, the following rules apply:

- (a) the amount that all of those persons have agreed upon in their election in respect of the property shall be deemed to be the person's proceeds of disposition of the property and the amount for which the partnership acquired the property;
- (b) the amount, if any, by which the amount so elected in respect of the property exceeds the amount of the consideration, other than an interest in the partnership, received by the person for the property shall,
 - (i) if immediately before that time the person was a member of the partnership, be included in computing the adjusted cost base to him of his interest in the partnership, and
 - (ii) in any other case, be included in computing the cost to him of his interest in the partnership;
- (c) where the amount that all of those persons have agreed upon in their election in respect of the property is greater than the fair market value, at the time of the disposition, of the property so disposed of, the amount so agreed upon shall, irrespective of the amount actually so agreed upon, be deemed to be an amount equal to that fair market value; and

- (d) notwithstanding clause c, where the amount that all of those persons have agreed upon in their election in respect of the property is less than the amount of the consideration, other than an interest in the partnership, received by the person for the property, the amount so agreed upon shall, irrespective of the amount so agreed upon, be deemed to be an amount equal to the amount of that consideration. *New.*

(3) Where at any time after 1971 a partnership has acquired property from a person who was, immediately after the acquisition, a member of the partnership, and, Where property acquired from majority interest partner

- (a) the person's share, as a member of the partnership, of the income of the partnership from any source for the fiscal year of the partnership in which the property was acquired exceeds one-half of the income of the partnership from that source for the fiscal year; or
- (b) the amount that would, if the partnership were wound up immediately after the acquisition, be paid to the person as a member of the partnership, otherwise than as his share of any income of the partnership, exceeds one-half of the aggregate of all such amounts that would be so paid to all persons as members of the partnership,

the loss, if any, of the person arising from the acquisition of the property by the partnership,

- (c) is, notwithstanding any other provision of this Act, not deductible in computing the income, net capital loss, non-capital loss or restricted farm loss, if any, of the person for any fiscal year; and

(d) shall,

- (i) where immediately before that time the person was a member of the partnership, be included in computing the adjusted cost base to him of his interest in the partnership, and
- (ii) in any other case, be included in computing the cost to him of his interest in the partnership. *New.*

(4) Where subsection 2 has been applicable in respect of the acquisition of any depreciable property by a partnership from a person who was, immediately after he disposed of Where capital cost to partner exceeds proceeds of disposition

the property, a member of the partnership and the capital cost to the person of the property exceeds his proceeds of the disposition, for the purposes of sections 17 and 24 and any regulations made under clause *a* of subsection 1 of section 24,

- (a) the capital cost to the partnership of the property shall be deemed to be the amount that was the capital cost thereof to the person; and
- (b) the excess shall be deemed to have been allowed to the partnership in respect of the property under regulations made under clause *a* of subsection 1 of section 24 in computing income for fiscal years before the acquisition by the partnership of the property. *New.*

Disposition
of partner-
ship property

87.—(1) For the purposes of this Act, notwithstanding that at any time after 1971 a partnership would, but for this subsection, be regarded as having ceased to exist,

- (a) until such time as all of the partnership property and any property substituted therefor has been distributed to the persons entitled by law to receive it, the partnership shall be deemed not to have ceased to exist, and each person who was a partner shall be deemed not to have ceased to be a partner; and
- (b) the right of each such person to share in such property shall be deemed to be an interest in the partnership. *New.*

Continuing
partnership
interest

(2) Where at any time after 1971 a person would, but for this subsection, be regarded as having ceased to be a member of a partnership of which he was a member immediately before that time,

- (a) until such time as all rights to receive any property of or from the partnership in satisfaction of the person's interest in the partnership immediately before that time are satisfied in full, such interest, in this subsection referred to as a "continuing partnership interest", shall, notwithstanding any other provision of this Act, be deemed not to have been disposed of by the person and to continue to be an interest in the partnership;
- (b) a person who has a continuing partnership interest in the partnership shall, for the purposes of this Act, except subsections 2 to 4 of section 86, subsections 3

to 6 of this section, section 89, and section 91, be deemed to be a member of the partnership in respect of his continuing partnership interest therein; and

- (c) in its application to any property that is a continuing partnership interest in the partnership, clause *a* of subsection 3 of section 42 shall be read without reference to the words, "except clause *b* thereof", therein. *New.*

(3) Subject to subsection 3 of section 79 and subsection 4^{Deemed proceeds} of this section, where at any time after 1971 a partnership has disposed of property to a person who was, immediately before that time, a member of the partnership, the partnership shall be deemed to have disposed of the property for proceeds equal to its fair market value at that time and the person shall be deemed to have acquired the property at an amount equal to that fair market value. *New.*

(4) Where at any particular time after 1971 a Canadian^{Rules applicable where partnership ceases to exist} partnership has ceased to exist and all of the partnership property has been distributed to persons who were members of the partnership immediately before that time so that immediately after that time each such person has, in each such property, an undivided interest that, when expressed as a percentage, in this subsection referred to as that person's "percentage", of all of the undivided interests in the property, is equal to his undivided interest, when so expressed, in each other such property, if each such person has jointly so elected in respect of the property in the prescribed form and within the prescribed time, the following rules apply:

- (a) each such person's proceeds of the disposition of his interest in the partnership shall be deemed to be an amount equal to the greater of,
 - (i) the adjusted cost base to him, immediately before the particular time, of his interest in the partnership, and
 - (ii) the amount of any money received by him on the cessation of the partnership's existence, plus his percentage of the aggregate of amounts each of which is the cost amount to the partnership of each such property immediately before its distribution;
- (b) the cost to each such person of his undivided interest in each such property shall be deemed to be an amount equal to,

- (i) his percentage of the cost amount to the partnership of the property immediately before its distribution,

plus,

- (ii) where the amount determined under subclause i of clause *a* exceeds the amount determined under subclause ii of clause *a*, the amount determined under clause *c* or *d*, as the case may be, in respect of his undivided interest in the property;
- (c) the amount determined under this clause in respect of each such person's undivided interest in each such property that was a capital property, other than depreciable property, of the partnership is such portion of the excess, if any, described in subclause ii of clause *b* as is designated by him in respect of the property, except that,
- (i) in no case shall the amount so designated in respect of his undivided interest in any such property exceed the amount, if any, by which his percentage of the fair market value of the property immediately after its distribution exceeds his percentage of the cost amount to the partnership of the property immediately before its distribution, and
 - (ii) in no case shall the aggregate of amounts so designated in respect of his undivided interests in all such capital properties, other than depreciable property, exceed the excess, if any, described in subclause ii of clause *b*;
- (d) the amount determined under this clause in respect of each such person's undivided interest in each such property that was depreciable property or a property other than a capital property of the partnership is such portion of,
- (i) the amount, if any, by which the excess, if any, described in subclause ii of clause *b* exceeds the aggregate of amounts designated by him under clause *c* in respect of his undivided interests in all such capital properties, other than depreciable property,

as is designated by him in respect of the property, except that,

- (ii) in no case shall the amount so designated in respect of his undivided interest in any such property exceed the amount, if any, by which his percentage of the fair market value of the property immediately after its distribution exceeds his percentage of the cost amount to the partnership of the property immediately before its distribution, and
 - (iii) in no case shall the aggregate of amounts so designated in respect of his undivided interests in all such properties that are depreciable property or properties other than capital properties, exceeds one-half of the amount determined under subclause i in respect of him;
- (e) where the property so distributed by the partnership was depreciable property of the partnership of a prescribed class and any such person's percentage of the amount that was the capital cost to the partnership of that property exceeds the amount determined under clause *b* to be the cost to him of his undivided interest in the property, for the purposes of sections 17 and 24 and any regulations made under clause *a* of subsection 1 of section 24,
- (i) the capital cost to him of his undivided interest in the property shall be deemed to be his percentage of the amount that was the capital cost to the partnership of the property, and
 - (ii) the excess shall be deemed to have been allowed to him in respect of the property under regulations made under clause *a* of subsection 1 of section 24 in computing income for fiscal years before the acquisition by him of the undivided interest; and
- (f) the partnership shall be deemed to have disposed of each such property for proceeds equal to the cost amount to the partnership of the property immediately before its distribution. *New.*

(5) Subsection 4 is not applicable in any case in which sub-section 3 of section 79 is applicable. *New.*

Application
of subs. 4

(6) Where a Canadian partnership, in this subsection referred to as the "predecessor partnership", has ceased to

Continuation
of predecessor
partnership
by new
partnership

exist at any particular time after 1971 and, at or before that time, all of the property of the predecessor partnership has been transferred to another Canadian partnership, hereinafter referred to as the "new partnership", the only members of which were members of the predecessor partnership, the new partnership shall be deemed to be a continuation of the predecessor partnership and any member's partnership interest in the new partnership shall be deemed to be a continuation of his partnership interest in the predecessor partnership. *New.*

Fiscal
period of
terminated
partnership

88. Where, at any time in a fiscal year of a partnership, the partnership would, but for subsection 1 of section 87 have ceased to exist, the fiscal year shall be deemed to have ended immediately before that time. *New.*

Disposition
of an interest
in a
partnership

89.—(1) Notwithstanding clause *a* of section 40, a corporation's taxable capital gain for a fiscal year from the disposition of an interest in a partnership to any person exempt from tax under section 122 shall be deemed to be,

- (a) one-half of such portion of its capital gain for the year therefrom as may reasonably be regarded as attributable to increases in the value of any partnership property of the partnership that is capital property other than depreciable property,

plus,

- (b) the whole of the remaining portion of such capital gain.

Gain from
disposition
of interest in
partnership

(2) In computing a corporation's gain for a fiscal year from the disposition of an interest in a partnership, there shall be included, in addition to the amount thereof determined under subsection 1 of section 42, the amount, if any, by which,

- (a) all amounts required by subsection 2 of section 55 to be deducted in computing the adjusted cost base to the corporation, immediately before the disposition, of the interest in the partnership,

exceeds

- (b) the aggregate of the cost to the corporation of the interest in the partnership and all amounts required by subsection 1 of section 55 to be added in computing the adjusted cost base to it, immediately before the disposition, of that interest. *New.*

90. Where a corporation was a member of a partnership at the end of a fiscal year of the partnership in which the partnership disposed of land used in a farming business of the partnership, there may be deducted in computing the corporation's income for its fiscal year in which the fiscal year of the partnership ended, one-half of the aggregate of amounts each of which is an amount in respect of that fiscal year of the corporation or any previous fiscal year of the corporation ending after 1971, equal to the corporation's loss, if any, for the fiscal year from the farming business, to the extent that such loss,

- (a) was, by virtue of section 33, not deductible in computing the corporation's income for the fiscal year,
- (b) was not deductible for the purpose of computing the corporation's taxable income for its fiscal year in which the partnership's fiscal year in which the land was disposed of ended, or for any previous fiscal year of the corporation;
- (c) did not exceed that proportion of the aggregate of,
 - (i) taxes, other than income or profits taxes or taxes imposed by reference to the transfer of the property, paid by the partnership in its fiscal year ending in the fiscal year or payable by it in respect of that fiscal year to a province or a Canadian municipality in respect of the property, and
 - (ii) interest paid by the partnership in its fiscal year ending in the fiscal year or payable by it in respect of that fiscal year, pursuant to a legal obligation to pay interest on borrowed money used to acquire the property or on any amount as consideration payable for the property,

to the extent that such taxes and interest were included in computing the loss of the partnership for that fiscal year from the farming business, that,

- (iii) the corporation's loss from the farming business for the fiscal year,
- is of,
- (iv) the partnership's loss from the farming business for its fiscal year ending in the fiscal year; and
 - (d) did not exceed the remainder obtained when,

- (i) the aggregate of each of the corporation's losses from the farming business for fiscal years preceding the fiscal year, to the extent that such losses are included in computing the amount determined under this section in respect of the corporation;

is deducted from,

- (ii) two times the amount of the corporation's taxable capital gain from the disposition of the land. *New.*

"Canadian partnership" defined

91. In this Subdivision "Canadian partnership" means a partnership all of the members of which were, at any time in respect of which the expression is relevant, resident in Canada. *New.*

Agreement to share income, etc., so as to reduce or postpone tax otherwise payable

92.—(1) Where the members of a partnership have agreed to share, in a specified proportion, any income or loss of the partnership from any source or from sources in a particular place, as the case may be, or any other amount in respect of any activity of the partnership that is relevant to the computation of the income or taxable income of any of the members thereof, and the principal reason for the agreement may reasonably be considered to be the reduction or postponement of the tax that might otherwise have been or become payable under this Act, the share of each member of the partnership in the income or loss, as the case may be, or in that other amount, is the amount that is reasonable having regard to all the circumstances including the proportions in which the members have agreed to share profits and losses of the partnership from other sources or from sources in other places.

Meaning of "losses" in subs. 1

(2) For the purposes of this section, the word "losses" when used in the expression "profits and losses" means losses determined without reference to other provisions of this Act. *New.*

SUBDIVISION J—BENEFICIARIES OF TRUSTS

Income of beneficiary from a trust

93.—(1) For the purposes of this Part, there shall be included in computing the income of a corporation that is a beneficiary under a trust such part of the amount that would be the income of the trust for a fiscal year if no deduction were made under subsection 6 or 12 of section 104 of the *Income Tax Act* (Canada) or under regulations made under paragraph a of subsection 1 of section 20 of the *Income Tax Act* (Canada) as was payable in the fiscal year to the corporation

1970-71, c. 63 (Can.)

whether or not it was paid to it in that fiscal year and shall not be included in computing its income for a subsequent fiscal year in which it was paid.

(2) A corporation that is a beneficiary under a trust may deduct from the amount that would otherwise be its income from the trust by virtue of subsection 1, such part of the amount that would otherwise be deductible from the income of the trust for the fiscal year under regulations made under paragraph *a* of subsection 1 of section 20 of the *Income Tax Act* (Canada), as the trust may determine. ^{Capital cost allowance deduction 1970-71, c. 63 (Can.)}

(3) Where an amount is payable in a fiscal year by a trust to a corporation that is a beneficiary under the trust, no part of that amount shall be deemed, for the purpose of subsection 1, to be payable out of an amount deductible in computing the income of the trust for the fiscal year under regulations made under subsection 1 of section 65 of the *Income Tax Act* (Canada) except such part thereof as the trust designates as being so payable. ^{Depletion allowance}

(4) Such portion of,

(a) the aggregate of taxable dividends received by a trust in a fiscal year on shares of the capital stock of taxable Canadian corporations, ^{Portion of taxable dividends deemed to be dividends received by beneficiary}

as,

(b) may reasonably be considered, having regard to all the circumstances including the terms and conditions of the trust arrangement, to be part of the amount that, by virtue of subsection 1 or section 94, as the case may be, was included in computing the income for the fiscal year of a corporation that was a particular beneficiary under the trust; and

(c) was not designated by the trust in respect of any other beneficiary thereunder,

shall if so designated by the trust in respect of the corporation that was a particular beneficiary in the return of its income for the fiscal year under Part I of the *Income Tax Act* (Canada), be deemed, for the purposes of section 76 and this subsection, to be a taxable dividend received by that corporation in the fiscal year from a taxable Canadian corporation, and not to be a taxable dividend received by the trust in the fiscal year from a taxable Canadian corporation.

(5) Where an amount has, in a fiscal year, become payable by a trust to a corporation that is a particular beneficiary thereunder, such portion thereof as, ^{Portion of non-taxable dividends not to be included in beneficiary's income}

- (a) may reasonably be considered, having regard to all the circumstances including the terms and conditions of the trust arrangement, to have derived from an amount received by the trust in the fiscal year as, on account or in lieu of payment of, or in satisfaction of a dividend on a share of the capital stock of a corporation resident in Canada other than a taxable dividend; and
- (b) was not designated by the trust in respect of any other beneficiary thereunder,

1970-71, c. 63
(Can.)

shall, if so designated by the trust in respect of the corporation that was a particular beneficiary in its return of income for the fiscal year under Part I of the *Income Tax Act* (Canada), not be included in computing the income of the corporation that was a particular beneficiary of the trust for the fiscal year.

Portion of
taxable
capital
gains
deemed
gain of
beneficiary

(6) Such portion of,

- (a) the amount, if any, by which the aggregate of the taxable capital gains of a trust for a fiscal year exceeds the aggregate of,
 - (i) its allowable capital losses for the fiscal year, and
 - (ii) the amount, if any, deductible under paragraph b of subsection 1 of section 111 of the *Income Tax Act* (Canada) from its income for the fiscal year,

as,

- (b) may reasonably be considered, having regard to all the circumstances including the terms and conditions of the trust arrangement, to be part of the amount that, by virtue of subsection 1 or section 94, as the case may be, was included in computing the income for the fiscal year of a corporation that was a particular beneficiary under the trust; and
- (c) was not designated by the trust in respect of any other beneficiary thereunder,

shall, if so designated by the trust in respect of the corporation that was a particular beneficiary in the return of its income for the fiscal year under Part I of the *Income Tax Act* (Canada), be deemed, for the purposes of sections 12 and 99, to be a taxable capital gain for the fiscal year of that corporation from the disposition of capital property.

(7) For the purposes of subsections 1 and 5, an amount^{"Amount payable"} shall not be considered to be payable in the fiscal year unless it was paid in the fiscal year to the person to whom it was payable or he was entitled in that fiscal year to enforce payment thereof. *New.*

94. The value of all benefits, other than a distribution^{Benefits under trust, contract, etc.} or payment of capital, to a corporation during a fiscal year from or under a trust, contract, arrangement or power of appointment, irrespective of when made or created, shall be included in computing the corporation's income for the fiscal year. *New.*

95.—(1) Where an amount in respect of a corporation's income interest in a trust has been included in computing the corporation's income for a fiscal year by virtue of subsection 1 of section 93 or subsection 2 of this section, there may be deducted in computing the corporation's income for the fiscal year the lesser of,

- (a) the amount so included in computing its income for the fiscal year; and
- (b) the amount, if any, by which the cost to the corporation of the income interest exceeds the aggregate of all amounts in respect of the interest that were deductible by virtue of this subsection in computing the corporation's income for previous fiscal years.

(2) Where in a fiscal year a corporation disposes of an income interest in a trust,

- (a) except where subsection 3 is applicable, there shall be included in computing the corporation's income for the fiscal year the proceeds of the disposition;
- (b) any taxable capital gain or allowable capital loss of the corporation from the disposition shall be deemed to be nil; and
- (c) for greater certainty, the cost to the corporation of each property received by it as consideration for the disposition is the fair market value of the property at the time of the disposition.

(3) For greater certainty, where at any time any property of a trust has been distributed by the trust to a corporation that was a beneficiary under the trust in satisfaction of all or any part of its income interest in the trust, the trust shall be

deemed to have disposed of the property for proceeds of disposition equal to the fair market value of the property at that time. *New.*

Disposition
by
corporation
of capital
interest

96.—(1) Where a corporation has disposed of a capital interest in a trust,

- (a) for the purposes of computing the corporation's taxable capital gain, if any, from the disposition of the interest, the adjusted cost base to the corporation thereof immediately before the disposition shall be deemed to be an amount equal to the greater of the adjusted cost base to it thereof otherwise determined immediately before that time and the cost amount to it of the interest immediately before that time; and
- (b) for greater certainty, for the purposes of computing the corporation's allowable capital loss, if any, from the disposition of the interest, the adjusted cost base to the corporation thereof immediately before the disposition is the adjusted cost base to it of the interest immediately before that time as determined under this Act without reference to clause *a*,

except that where the interest was an interest in an *inter vivos* trust not resident in Canada that was purchased by the corporation, clause *a* does not apply in respect of the disposition thereof except where subsection 2 is applicable in respect of any distribution of property by the trust to the corporation in satisfaction of all or any part of the interest.

Distribution
by trust in
satisfaction
of capital
interest

(2) Where at any time any property of a trust has been distributed by the trust to a corporation that was a beneficiary under the trust in satisfaction of all or any part of the corporation's capital interest in the trust, the following rules apply,

- (a) the trust shall be deemed to have disposed of the property for proceeds of disposition equal to its cost amount to the trust immediately before that time;
- (b) the corporation shall be deemed to have acquired the property at a cost equal to the aggregate of its cost amount to the trust immediately before that time and that proportion of the amount, if any, by which,
 - (i) the adjusted cost base to the corporation of the capital interest immediately before that time as determined for the purposes of clause *b* of subsection 1,

exceeds

- (ii) the cost amount to the corporation of the capital interest immediately before that time,

that the cost amount to the trust of the property immediately before that time is of the amount determined under subclause ii;

- (c) the corporation shall be deemed to have disposed of all or part, as the case may be, of the capital interest for proceeds equal to the cost at which the corporation is deemed by clause *b* to have acquired the property, minus the amount of any debt assumed by the corporation or of any other legal obligation assumed by it to pay any amount, if the distribution of the property to the corporation was conditional upon the assumption by the corporation of the debt or obligation; and

- (d) where the property so distributed was depreciable property of a prescribed class of the trust and the amount that was the capital cost to the trust of that property exceeds the cost at which the corporation is deemed by this section to have acquired the property, for the purposes of sections 17 and 24 and any regulations made under clause *a* of subsection 1 of section 24,

- (i) the capital cost to the corporation of the property shall be deemed to be the amount that was the capital cost of the property to the trust, and

- (ii) the excess shall be deemed to have been allowed to the corporation in respect of the property under regulations made under clause *a* of subsection 1 of section 24 in computing income for fiscal years before the acquisition by the corporation of the property.

(3) Where the property referred to in subsection 2 that was distributed by a trust to a corporation was property, other than capital property that was not depreciable property, for the purposes of determining the cost to the corporation of the property under clause *b* of subsection 2, except for the purposes of clause *b* of subsection 2 as it applies to determine the corporation's proceeds of disposition of its capital interest under clause *c* of subsection 2, the reference in clause *b* of subsection 2 to "that proportion" shall be read as a reference to "one-half of that proportion". *New.*

Determina-
tion of cost
of property
other than
non-
depreciable
capital
property

Distribution
to non-resi-
dent bene-
ficiary

1970-71,
c. 63 (Can.)

Interpre-
tation

(4) Where subsection 2 is applicable in respect of the distribution by a trust of any property of the trust to a non-resident corporation that was a beneficiary under the trust and the property was not taxable Canadian property or property that would be taxable Canadian property if at no time in the fiscal year of the trust in which it was so distributed the trust had been resident in Canada, notwithstanding clauses *a* to *c* of subsection 2, the provisions of paragraphs *d* to *f* of subsection 4 of section 107 of the *Income Tax Act* (Canada) are applicable in respect of the property as if the reference in paragraph *f* of subsection 4 of section 107 of that Act to “that fair market value” were read as a reference to “the adjusted cost base to him of the interest or part thereof, as the case may be, immediately before the property was so distributed”.

97.—(1) In this Subdivision,

- (a) “beneficiary” under a trust includes a person beneficially interested therein;
- (b) “capital interest” of a corporation in a trust means a right, whether immediate or future and whether absolute or contingent, of a corporation that is a beneficiary under the trust to, or to receive, all or any part of the capital of a trust;
- (c) “cost amount” of any capital interest of a corporation in any trust at any time means,
 - (i) in any case where any money or property of the trust has been distributed by the trust to the corporation in full satisfaction of the whole of its capital interest, whether on the winding-up of the trust or otherwise, the aggregate of the money so distributed and all amounts each of which is the cost amount to the trust, immediately before the distribution, of each such property so distributed to the corporation, and
 - (ii) in any other case, that proportion of the amount, if any, by which the aggregate of all money of the trust on hand immediately before that time and all amounts each of which is the cost amount to the trust, immediately before that time, of each property of the trust exceeds the aggregate of all amounts each of which is the amount of any debt owing by the trust, or of any other obligation of the trust to pay any amount, that was outstanding immediately before that time, that,
 - (A) the fair market value at that time of the capital interest in the trust,

is of,

(B) the fair market value at that time of all capital interests in the trust;

- (d) "income interest" of a corporation in a trust means a right, whether immediate or future and whether absolute or contingent, of a corporation that is a beneficiary under the trust to, or to receive, all or any part of the income of the trust;
- (e) "*inter vivos* trust" means a trust other than a testamentary trust;
- (f) "trust" includes an *inter vivos* trust but, in sections 94 to 96, does not include,
 - (i) a unit trust, or
 - (ii) a trust governed by a registered pension fund or plan, an employees profit sharing plan, a registered supplementary unemployment benefit plan, a registered retirement savings plan or a deferred profit sharing plan.

(2) For the purposes of this Act, a trust is a unit trust at any particular time if, at that time, it was an *inter vivos* trust the interest of each beneficiary under which was described by reference to units of the trust, and,

- (a) the issued units of the trust included,
 - (i) units having conditions attached thereto that included conditions requiring the trust to accept, at the demand of the holder thereof and at prices determined and payable in accordance with the conditions, the surrender of the units, or fractions or parts thereof, that are fully paid, or
 - (ii) units qualified in accordance with prescribed conditions relating to the redemption of the units by the trust,

and the fair market value of such of the units as had conditions attached thereto that included such conditions or as were so qualified, as the case may be, was not less than 95 per cent of the fair market value of all of the issued units of the trust, such fair market values being determined without regard to any voting rights attaching to units of the trust; or

- (b) throughout the fiscal year in which the particular time occurred it complied with the following conditions,
 - (i) it was resident in Canada,

- (ii) its only undertaking was the investing of funds of the trust,
- (iii) at least 80 per cent of its property throughout the year consisted of shares, bonds, mortgages, marketable securities, or cash, or of rights to or interest in any rental or royalty computed by reference to the amount or value of production from an oil or gas well, or from a mineral resource, situated in Canada,
- (iv) not less than 95 per cent of its income for the fiscal year was derived from, or from dispositions of, investments described in sub-clause iii,
- (v) at no time in the fiscal year did more than 10 per cent of its property consist of shares, bonds or securities of any one corporation or debtor other than Her Majesty in right of Canada or a province or a Canadian municipality, and
- (vi) all holdings of and transactions, if any, in its units accorded with prescribed conditions relating to the number of its unit holders, dispersal of ownership of its units and public trading of its units.

Meaning of
"income"
of trust

(3) For the purposes of clause *d* of subsection 1 of section 97, the income of a trust is its income computed without reference to the provisions of this Act. *New.*

DIVISION C—COMPUTATION OF TAXABLE INCOME

Deductions
permitted

98.—(1) For the purpose of computing the taxable income of a corporation for a fiscal year, there may be deducted from its income for the fiscal year such of the following amounts as are applicable:

Charitable
donations

- (a) the aggregate of gifts made by the corporation in the fiscal year, and in the immediately preceding fiscal year, to the extent of the amount thereof that was not deductible under this Act in computing the taxable income of the corporation for that immediately preceding fiscal year, to,

- (i) registered Canadian charitable organizations,
- (ii) registered Canadian amateur athletic associations,

- (iii) housing corporations resident in Canada and exempt from tax under Part II by clause *f* of subsection 1 of section 122,
- (iv) Her Majesty in right of any province of Canada other than Ontario and any Canadian municipality,
- (v) the United Nations or agencies thereof,
- (vi) universities outside Canada prescribed to be universities the student body of which ordinarily includes students from Canada, and
- (vii) charitable organizations outside Canada to which Her Majesty in right of Canada has made a gift during the fiscal year or the 12 months immediately preceding that fiscal year,

not exceeding 20 per cent of the income of the corporation for the fiscal year, if payment of the amounts given is proven by filing receipts or photostatic reproductions thereof with the Minister that, in the case of a donation to a registered Canadian charitable organization or registered Canadian amateur athletic association, contain prescribed information; R.S.O. 1970, c. 91, s. 37 (1), par. 1, *amended*.

- (b) the aggregate of gifts made by the corporation in the fiscal year, and in the immediately preceding fiscal year, to the extent of the amount thereof that was not deductible under this Act in computing the taxable income of the corporation for that immediately preceding fiscal year, to Her Majesty in right of Canada and of Ontario, not exceeding the amount remaining, if any, when the amount deducted for the fiscal year under subsection 1 is deducted from the income of the corporation for the fiscal year, if payment of the amounts given is proven by filing receipts or photostatic reproductions thereof with the Minister. R.S.O. 1970, c. 91, s. 37 (1), par. 2.

(2) Clauses *a* and *b* of subsection 1 do not apply to permit a corporation to deduct, for the purposes of computing its taxable income for a fiscal year, any amount in respect of gifts made by the corporation in the fiscal year, until the amount deductible under those clauses in respect of gifts made by the corporation in the immediately preceding fiscal year has been deducted. R.S.O. 1970, c. 91, s. 37 (5).

Gifts made by
partnership

(3) Where a corporation was, at the end of a fiscal year of a partnership, a member of the partnership, the corporation's share of any amount that would, if the partnership were a person, be a gift made by the partnership to any donee, shall, for the purposes of this section, be deemed to be a gift made by the corporation in its fiscal year in which the fiscal year of the partnership ended, to that donee. *New.*

Interpre-
tation

(4) In this section,

(a) "registered Canadian amateur athletic association" means an association that was created under any law in force in Canada, that is resident in Canada, and that,

1970-71, c. 63
(Can.)

(i) is a person described in paragraph l of subsection 1 of section 149 of the *Income Tax Act* (Canada), and

(ii) has, as its primary purpose and its primary function, the promotion of amateur athletics in Canada on a nationwide basis; and *New*

(b) "registered Canadian charitable organization" means,

(i) a charitable organization in Canada exempt from tax under Part I of the *Income Tax Act* (Canada) by paragraph f of subsection 1 of section 149 thereof or a corporation or trust resident in Canada exempt from tax under Part I of the *Income Tax Act* (Canada) by paragraph g or h of subsection 1 of section 149 thereof, or

(ii) a branch, section, parish, congregation or other division of an organization described in subclause i that receives donations on its own behalf,

that, except as otherwise designated by the Minister, has been registered as a Canadian amateur athletic association or a Canadian charitable organization, as the case may be, in respect of the same year by the Minister of National Revenue for Canada under subsection 8 of section 110 of the *Income Tax Act* (Canada) and except as otherwise designated by the Minister, the registration has not been revoked by the Minister of National Revenue for Canada under subsection 2 of section 168 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 37 (6,8), *amended*.

99.—(1) For the purpose of computing the taxable income of a corporation for a fiscal year, there may be deducted from the income for the fiscal year such of the following amounts as are applicable:

(a) non-capital losses for the five fiscal years immediately preceding and the fiscal year immediately following the fiscal year, but no amount is deductible in respect of non-capital losses from the income of any fiscal year except to the extent of the corporation's income for the fiscal year minus all deductions permitted by the provisions of this Division other than this clause or clause *b*; R.S.O. 1970, c. 91, s. 37 (1), par. 3, *amended*. Non-capital
losses

(b) net capital losses for fiscal years preceding and the fiscal year immediately following the fiscal year, but no amount is deductible in respect of net capital losses from the income of any fiscal year except to the extent of the lesser of, Net capital
losses

(i) the amount, if any, by which the corporation's income for the fiscal year exceeds the aggregate of all deductions permitted by the provisions of this Division other than this clause, and

(ii) the amount, if any, determined under clause *b* of section 12 in respect of the corporation for the fiscal year; *New*.

(c) restricted farm losses of the corporation for the five fiscal years immediately preceding and the fiscal year immediately following the fiscal year, but no amount is deductible in respect of a restricted farm loss from the income for any fiscal year except to the extent of the lesser of, Restricted
farm
losses

(i) the corporation's income for the fiscal year minus all deductions permitted by the provisions of this Division other than this subsection, and

(ii) the corporation's incomes for the fiscal year from all farming businesses carried on by it. R.S.O. 1970, c. 91, s. 37 (4), *amended*.

(2) For the purposes of subsection 1,

Limitation
on
deductibility

(a) an amount in respect of a non-capital loss, net capital loss or restricted farm loss, as the case may be, for a

fiscal year is only deductible to the extent that it exceeds the aggregate of,

- (i) amounts previously deductible in respect of that loss under this section, and
 - (ii) amounts previously subtracted in respect of that loss under paragraph c or d of subsection 1 of section 186 of the *Income Tax Act* (Canada) in determining amounts on which tax under Part IV of that Act has become payable; and
- (b) no amount is deductible in respect of a non-capital loss, net capital loss or restricted farm loss, as the case may be, for any fiscal year until,
- (i) in the case of a non-capital loss, the deductible non-capital losses,
 - (ii) in the case of net capital loss, the deductible net capital losses, and
 - (iii) in the case of a restricted farm loss, the deductible restricted farm losses,

for previous fiscal years have been deducted. R.S.O. 1970, c. 91, s. 37 (1, 2), *amended*.

Application
of subs. 1
where
change in
control

(3) Subsection 1 does not apply to permit a corporation to deduct, for the purpose of computing its taxable income for a fiscal year, any amount in respect of its net capital loss for a preceding fiscal year if, before the end of the fiscal year, control of the corporation has been acquired by a person or persons who did not at the end of that preceding fiscal year, control the corporation. R.S.O. 1970, c. 91, s. 37 (2), *amended*.

Idem

(4) Subsection 1 does not apply to permit a corporation to deduct, for the purpose of computing its taxable income for a fiscal year, such portion of its non-capital loss for a preceding fiscal year as may reasonably be regarded as its loss from carrying on any particular business if,

- (a) control of the corporation has been acquired, before the end of the fiscal year, by a person or persons who did not, at the end of that preceding fiscal year, control the corporation and the corporation was not, during the fiscal year, carrying on that business; or
- (b) control of the corporation was acquired, before the end of the fiscal year and after the winding-up or dis-

continuance of that business, by a person or persons who did not control the corporation at any time during that preceding fiscal year when that business was being carried on. R.S.O. 1970, c. 91, s. 37 (2, 3), *amended*.

(5) For the purposes of clause *h* of subsection 1 of section 55 and this section, any loss of a corporation for a fiscal year from a farming business shall, after the corporation disposes of the land used in that farming business and to the extent that the amount of such loss is required by clause *h* of subsection 1 of section 55 to be added in computing the adjusted cost base to the corporation of the land immediately before the disposition, be deemed not to be a loss. *New.* Limitation

(6) For the purposes of this section, any loss of a corporation for a fiscal year from a farming business shall, to the extent that such loss is included in the amount of any deduction permitted by section 90 in computing the corporation's income for any subsequent fiscal year, be deemed not to be a loss of the corporation for the purpose of computing its taxable income for that subsequent fiscal year or any fiscal year subsequent thereto. R.S.O. 1970, c. 91, s. 37 (4), *amended*. Idem

(7) In this section,

Interpre-
tation

(a) "net capital loss" of a corporation for a fiscal year means the amount, if any, by which its allowable capital losses for the fiscal year from dispositions of property, other than listed personal property, exceeds the aggregate of its taxable capital gains for the fiscal year from dispositions of property, other than listed personal property, and its taxable net gains for the fiscal year from dispositions of its listed personal property;

(b) "non-capital loss" of a corporation for a fiscal year means the amount, if any, by which,

(i) the aggregate of all amounts each of which is the corporation's loss for the fiscal year from a business or property and all amounts deductible under section 100 from the corporation's income for the fiscal year,

exceeds

(ii) the amount determined under clause *c* of section 12; and

(c) a reference to any amount determined under any clause or subclause of section 12 for a fiscal year Reference
in s. 12

shall be read as a reference to, in the case of a corporation to which subsection 2 or 3 of section 2 applies, the amount determined under any such clause or subclause for the fiscal year for the purposes of section 101. *New.*

Deduction of taxable dividends received by corporation resident in Canada

100.—(1) Where a corporation in a fiscal year has received a taxable dividend from,

- (a) a taxable Canadian corporation;
- (b) a corporation resident in Canada, other than a non-resident-owned investment corporation, and controlled by it; or
- (c) a corporation non-resident of Canada more than 25 per cent of the issued share capital of which, having full voting rights under all circumstances, belongs to the corporation receiving the dividend,

an amount equal to the dividend may be deducted from the income of the receiving corporation for the fiscal year for the purpose of computing its taxable income. R.S.O. 1970, c. 91, s. 38 (1), *amended*.

Dividends received from non-resident corporation
1970-71, c. 63 (Can.)

(2) Where a corporation in a fiscal year received a taxable dividend from a non-resident corporation that is taxable under subsection 3 of section 2 of the *Income Tax Act* (Canada) for that fiscal year, the corporation shall deduct from its income for the same fiscal year the same amount in respect of such dividends as the corporation was allowed to deduct under subsection 2 of section 112 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 38 (2).

Loss from transaction involving share on which deductible dividend received

(3) Where an amount in respect of a taxable dividend received by a corporation, other than a trader or dealer in securities, in a fiscal year is, by virtue of this section or subsection 6 of section 138 of the *Income Tax Act* (Canada) deductible from the corporation's income for the fiscal year, the amount of any loss arising from transactions with reference to the share on which the dividend was received shall, unless it is established by the corporation that,

- (a) the corporation owned the share 365 days or longer before the loss was sustained; and
- (b) the corporation did not, at the time the dividend was received, own more than 5 per cent of the issued shares of any class of the capital stock of the corporation from which the dividend was received,

be deemed to be the amount of that loss otherwise determined minus the aggregate of all amounts received by the corporation in respect of taxable dividends on the share, to the extent that the amounts thereof were deductible from the corporation's income for any fiscal year by virtue of this section or subsection 6 of section 138 of the *Income Tax Act* (Canada). R.S.O. 1970-71, c. 63 (Can.) 1970, c. 91, s. 38 (3).

(4) The amount of any loss of a corporation that is a trader or dealer in securities arising from transactions with reference to any share on which an amount in respect of a dividend has been received by it shall, unless it is established by that corporation that,

Loss sustained by trader or dealer in securities

- (a) it owned the share 365 days or longer before the loss was sustained; and
- (b) it did not, at the time the dividend was received, own more than 5 per cent of the issued shares of any class of the capital stock of the corporation from which the dividend was received,

be deemed to be the amount of that loss otherwise determined, minus the aggregate of all amounts received by the corporation in respect of taxable dividends on the share.

(5) For the purposes of this section,

Meaning of certain expressions

- (a) "taxable dividend" does not include a capital gains dividend within the meaning given to that expression by subsection 1 of section 109; and
- (b) one corporation is controlled by another corporation if more than 50 per cent of its issued share capital, having full voting rights under all circumstances, belongs to the other corporation, to persons with whom the other corporation does not deal at arm's length, or to the other corporation and persons with whom the other corporation does not deal at arm's length. *New.*

DIVISION D—TAXABLE INCOME EARNED

IN CANADA BY NON-RESIDENTS

101. For the purposes of this Act, the taxable income earned in Canada of a corporation to which subsection 2 or 3 of section 2 applies is the amount of its income for the fiscal year that would be determined under section 12 if,

Non-residents' taxable income earned in Canada

- (a) it had no income other than,

- (i) incomes from businesses carried on in Canada,
 - (ii) taxable capital gains from dispositions described in clause *b*,
 - (iii) income from property that is real property situated in Canada or an interest therein, that arose from the sale or rental thereof, or both,
 - (iv) the amount, if any, by which any amount required by subsection 2 of section 95 to be included in computing its income for the fiscal year as proceeds of the disposition of an income interest in a trust resident in Canada exceeds the amount in respect of that income interest that would, if it were liable to taxation by virtue of subsection 1 of section 2 throughout the fiscal year, be deductible under subsection 1 of section 95 in computing its income for the fiscal year, and
 - (v) proceeds of disposition by it in the fiscal year of a property that is a Canadian resource property, within the meaning given to that expression by subsection 12 of section 63, or that would have been such a property if it had been acquired by it after 1971 to the extent not included in computing its income from a business carried on by it in Canada;
- (*b*) the only taxable capital gains and allowable capital losses referred to in clause *b* of section 12 were taxable capital gains and allowable capital losses from dispositions of property each of which was a disposition of a property, in this Act referred to as a "taxable Canadian property", that was a property referred to in any of the subparagraphs i to viii of paragraph b of subsection 1 of section 115 of the *Income Tax Act* (Canada); and
- (*c*) the only losses referred to in clause *d* of section 12 were losses from a business carried on by it in Canada or from real property situated in Canada or an interest therein,

1970-71, c. 63
(Can.)

minus the aggregate of such of the deductions from income permitted for the purpose of computing taxable income as may reasonably be considered wholly applicable and of such part of any other of the said deductions as may reasonably be considered applicable. R.S.O. 1970, c. 91, s. 5 (36-38), *amended*.

DIVISION E—COMPUTATION OF INCOME
TAX PAYABLE

102. The tax payable by a corporation under this Part ^{Rate} upon its taxable income or taxable income earned in Canada, as the case may be, in this section referred to as the “amount taxable”, is 12 per cent of the amount taxable. R.S.O. 1970, c. 91, s. 5 (1).

103. There may be deducted from the tax otherwise pay- ^{Deduction} ^{from} ^{income tax} able under this Part for a fiscal year by a corporation an amount equal to 12 per cent of that portion of its taxable income or taxable income earned in Canada, as the case may be, which is earned in the fiscal year in each jurisdiction other than Ontario, determined under rules prescribed by the regulations. R.S.O. 1970, c. 91, s. 5 (2).

104. Where a corporation has a permanent establishment ^{Foreign} ^{tax} ^{deduction} in Ontario and has received income in the fiscal year in the form of dividends, interest, rents or royalties that was derived from sources within a jurisdiction outside Canada or is deemed to have received income in the form of dividends and interest from a country outside Canada by virtue of the provisions of subsection 5 of section 148 of the *Income Tax Act* (Canada), here- ^{1970-71, c. 63} ^(Can.) inafter in this section referred to as “foreign investment income”, or where a corporation having received foreign investment income in the fiscal year from sources within a jurisdiction outside Canada also received income in the fiscal year from a business carried on by it in that jurisdiction, hereinafter in this section referred to as “foreign business income”, and where, for the purposes of subsection 2 of section 126 of the *Income Tax Act* (Canada), such foreign investment income has not been included as part of such foreign business income, and, for the purpose of allocating taxable income to jurisdictions outside Ontario in accordance with the regulations made under section 103, has been excluded when calculating its gross revenue, or any part thereof, and where the corporation is entitled to a deduction under section 126 of the *Income Tax Act* (Canada), hereinafter in this section referred to as “foreign tax credit”, with respect to any income or profits tax paid to such jurisdiction on such foreign investment income or on such foreign investment income and foreign business income or is deemed to have been paid as income or profits tax to such jurisdiction by virtue of the provisions of subsection 5 of section 148 of the *Income Tax Act* (Canada), the corporation may deduct from the tax otherwise payable under this Part for the fiscal year an amount equal to the lesser of,

- (a) 10 per cent of that part of such foreign investment income that is included in that portion of taxable

income that remains after deducting from such taxable income the portions thereof deemed to have been earned in jurisdictions other than Ontario for the purpose of section 103; and

(b) the proportion of the deficiency between the foreign tax credit that would be allowed if no provincial tax abatement under section 124 of the *Income Tax Act* (Canada) were applicable and the foreign tax credit that is allowed when the provincial tax abatement provided by section 124 of the *Income Tax Act* (Canada) has been applied which,

(i) the amount of that portion of its taxable income for the fiscal year that is deemed to have been earned in Ontario measured in accordance with paragraph a, of subsection 4 of section 124 of the *Income Tax Act* (Canada),

bears to,

(ii) the total amount of the portions of its taxable income for the fiscal year that are deemed to have been earned in the provinces of Canada measured in accordance with paragraph a of subsection 4 of section 124 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 5 (39).

Logging
tax
deduction

105.—(1) There may be deducted from the tax otherwise payable under this Part for a fiscal year by a corporation an amount equal to one-third of the tax payable by the corporation for the same fiscal year under *The Logging Tax Act*. R.S.O. 1970, c. 91, s. 5 (40).

Interpre-
tation

(2) In subsection 1, “tax otherwise payable” means the tax for the fiscal year otherwise payable by the corporation under this Part after making any deduction applicable under section 103. R.S.O. 1970, c. 91, s. 5 (41).

5% invest-
ment tax
deduction

106.—(1) There may be deducted from the tax otherwise payable under this Part for a fiscal year by a corporation an amount equal to 5 per cent of the cost of machinery and equipment acquired and used in that fiscal year by the corporation which machinery and equipment is acquired pursuant to an agreement entered into after the 26th day of April, 1971, and which shall be used by the corporation solely in Ontario prior to the 1st day of April, 1973, for the purpose of earning income. 1971, c. 11, s. 1, *part*.

Deemed
acquisition
and use

(2) For the purposes of this section, where the machinery and equipment in respect of which the provisions of sub-

section 1 would otherwise apply, is not used by the corporation in the fiscal year in which it is acquired, such machinery and equipment shall be deemed to have been acquired and used by the corporation in the fiscal year in which it is first used. 1971, c. 72, s. 1.

(3) Any amount which may be deducted under subsection 1 may be deducted in subsequent fiscal years to the extent that the deduction allowed under subsection 1 exceeds the tax otherwise payable by the corporation in the previous fiscal years and, except as herein provided, no deduction shall be allowed in any fiscal year of the corporation ending after the 31st day of March, 1973, except that with respect to the first fiscal year of the corporation ending after the 31st day of March, 1973, the amount which may be deducted from the tax otherwise payable for that fiscal year shall not exceed that portion of the tax otherwise payable for that fiscal year that the number of days in that fiscal year prior to the 1st day of April, 1973, bears to 365. Tax deduction carried forward

(4) Notwithstanding subsection 3, where a corporation has a net loss, any amount which may be deducted under subsection 1 may be deducted in subsequent fiscal years to the extent that the deduction allowed under subsection 1 exceeds the tax otherwise payable by the corporation in the previous fiscal years and, except as herein provided, no deduction shall be allowed in any fiscal year of the corporation ending after the 31st day of March, 1974, except that with respect to the first fiscal year of the corporation ending after the 31st day of March, 1974 the amount which may be deducted from the tax otherwise payable for that fiscal year shall not exceed the portion of the tax otherwise payable for that fiscal year that the number of days in that fiscal year prior to the 1st day of April, 1974, bears to 365. Idem

(5) In this section,

Interpretation

- (a) "machinery and equipment" means machinery and equipment prescribed by the regulations, but does not include automobiles and trucks, any property that is described in the corporation's inventory or that part of any property in respect of which a loan is made under *The Ontario Development Corporation Act*, or *The Northern Ontario Development Corporation Act*;

R.S.O. 1970,
cc. 308, 299

- (b) "net loss" means the amount, if any, by which the non-capital losses exceed the incomes of a corporation for the fiscal years ending between the 26th day of April, 1971, and the 1st day of April, 1973, except that,

- (i) where the provisions of subsection 4 apply with respect to the first fiscal year of the corporation ending after the 31st day of March, 1973, in determining the net loss for the purpose of this section there shall be included that portion of the non-capital loss or income for that fiscal year that the number of days in that fiscal year prior to the 1st day of April, 1973, bears to 365, and
- (ii) where, for the purposes of section 103, part of the taxable income of a corporation for a fiscal year is deemed to have been earned by the corporation in a jurisdiction outside Ontario, or, where the taxable income for that fiscal year is nil and, for the purposes of section 132, part of the taxable paid-up capital of the corporation is deemed to have been used in a jurisdiction outside Ontario, the non-capital loss or income for that fiscal year shall, in determining the net loss for the purpose of this section, be reduced in the same ratio that the tax payable under section 102 or 131, as the case may be, is reduced for that fiscal year;
- (c) "tax otherwise payable" means the tax for the fiscal year otherwise payable by the corporation under this Part after making any deduction applicable under section 103. 1971, c. 11, s. 1, *part*.

Tax on
tax

1970-71, c. 63
(Can.)

107. Where under a contract, will or trust, made or created before the 14th day of May, 1953, a person is required to make a payment to a corporation and is required by the terms of the contract, will or trust to pay an additional amount measured by reference to tax payable by such corporation under Part I of the *Income Tax Act* (Canada) and Part II of this Act by reason of the payment,

- (a) the tax payable by the corporation under Part II of this Act for the fiscal year in or in respect of which such a payment is made or becomes payable is the amount that the tax of the corporation under Part II of this Act would be if no amount under the contract were included in computing its income for the fiscal year plus,
 - (i) the amount by which its tax under Part II of this Act would be increased by including in computing its income,

- (A) the payment, and
- (B) the amount by which its tax under Part I of the *Income Tax Act* (Canada) ^{1970-71, c. 63 (Can.)} would be increased by including the payment in computing its income, and
- (ii) the amount by which the tax of the corporation under Part II of this Act would be further increased by including, in computing its income for the fiscal year, the amount fixed by subclause i or the additional payment, whichever is the lesser; and
- (b) if the person required to make the payment is a corporation and would otherwise be entitled to deduct the amounts payable under such a contract in computing its income for a fiscal year, such corporation is not entitled to deduct the amount determined under subclause ii of clause a. R.S.O. 1970, c. 91, s. 67.

DIVISION F—SPECIAL RULES
APPLICABLE IN CERTAIN CIRCUMSTANCES

Bankruptcies

108.—(1) Where a corporation has become a bankrupt, the following rules are applicable: Where
corporation
bankrupt

- (a) the trustee in bankruptcy shall be deemed to be the agent of the bankrupt for all purposes of this Act;
- (b) the estate of the bankrupt shall be deemed not to be a trust or an estate for the purposes of this Act;
- (c) the income and the taxable income of the corporation for any fiscal year of the corporation during which it was a bankrupt and for any subsequent fiscal year shall be calculated as if,
 - (i) the property of the bankrupt did not pass to and vest in the trustee in bankruptcy on the receiving order being made or the assignment filed but remained vested in the bankrupt, and
 - (ii) any dealing in the estate of the bankrupt or any act performed in the carrying on of the business of the bankrupt estate by the trustee was done as agent on behalf of the bankrupt and any income of the trustee from

such dealing or carrying on is income of the bankrupt and not of the trustee;

- (d) a fiscal year of the corporation shall be deemed to have commenced on the day the corporation became a bankrupt and a fiscal year of the corporation that would otherwise have ended after the corporation became a bankrupt shall be deemed to have ended on the day immediately before the day on which the corporation became a bankrupt;
- (e) where, in the case of any fiscal year of the corporation ending during the period the corporation is a bankrupt, the corporation fails to pay the tax payable by the corporation under this Act for any such fiscal year, the corporation and the trustee in bankruptcy are jointly and severally liable to pay the tax, except that,
 - (i) the trustee is only liable to the extent of the property of the bankrupt in his possession, and
 - (ii) payment by either of them shall discharge the joint obligation;
- (f) in the case of any fiscal year of the corporation ending during the period the corporation is a bankrupt, the corporation shall be deemed not to be associated with any other corporation in the year; and
- (g) where an absolute order of discharge is granted in respect of the corporation, for the purposes of section 99 any loss of the corporation for any fiscal year preceding the fiscal year in which the order of discharge was granted is not deductible by the corporation in computing its taxable income for the fiscal year of the corporation in which the order was granted or any subsequent fiscal year. R.S.O. 1970, c. 91, s. 40 (1).

"Bankrupt"
and "estate
of bankrupt"
defined
R.S.C. 1970,
c. B-4

(2) In this section, "bankrupt" and "estate of the bankrupt" have the meanings given to those expressions by the *Bankruptcy Act* (Canada). R.S.O. 1970, c. 91, s. 40 (2).

*Investment Corporations
and Mutual Fund Corporations*

Election
re capital
gains
dividend
1970-71, c. 63
(Can.)

109.—(1) Where a corporation is an investment corporation, as defined by subsection 3 of section 130 of the *Income Tax Act* (Canada), or is a mutual fund corporation, as defined by sub-

section 8 of section 131 of such Act, and the corporation has elected in respect of the full amount of a dividend that has become payable by it at any particular time after 1971 in accordance with subsection 1 of section 131 of the *Income Tax Act* (Canada),^{1970-71, c. 63 (Can.)}

- (a) the dividend shall be deemed to be a capital gains dividend to the extent that it does not exceed the corporation's capital gains dividend account as defined by paragraph b of subsection 6 of section 131 of the *Income Tax Act* (Canada) at the particular time; and
- (b) notwithstanding anything in this Act, any amount received by a corporation in a fiscal year as, on account of or in lieu of payment of, or in satisfaction of the dividend shall not be included in computing the corporation's income for the fiscal year as income from a share of the capital stock of the paying corporation, but shall be deemed to be a capital gain of the corporation for the fiscal year from the disposition of capital property.

(2) Where a corporation has in a fiscal year become entitled to a refund by virtue of subsection 2 of section 131 of the *Income Tax Act* (Canada), the Minister,^{Capital gains refund to mutual fund corporation}

- (a) may upon mailing the notice of assessment for the fiscal year, refund without application therefor an amount equal to 25 per cent of its capital gains refund for the fiscal year determined under subsection 2 of section 131 of the *Income Tax Act* (Canada) for the same fiscal year; and
- (b) shall make such a refund after mailing the notice of assessment if application therefor has been made in writing by the corporation within 4 years from the end of the fiscal year.

(3) Instead of making a refund that might otherwise be made under subsection 2, the Minister may, where the corporation is liable or about to become liable to make any payment under this Act, apply the amount that would otherwise be refunded to that other liability and notify the corporation of that action.^{Application to other liability}

(4) Section 78 does not apply to deem a dividend to have been paid by a corporation to any of its shareholders, or to deem any of the shareholders of a corporation to have received a dividend on any shares of the capital stock of the corporation, if at the time the dividend would, but for this subsection, be^{Application of s. 78}

deemed by section 78 to have been so paid or received, as the case may be, the corporation was a mutual fund corporation. *New.*

Non-Resident-Owned Investment Corporations

110.—(1) The income of a non-resident-owned investment corporation for a fiscal year shall be computed as if its only income was taxable capital gains and allowable capital losses referred to in clause *b* of section 12 from dispositions of taxable Canadian property or property that would be taxable Canadian property if at no time in the fiscal year the corporation had been resident in Canada. R.S.O. 1970, c. 91, s. 45 (1), *amended.*

(2) The taxable income of a non-resident-owned investment corporation for a fiscal year is its income determined under subsection 1, minus its net capital losses for fiscal years preceding and the fiscal year immediately following the fiscal year, as provided for by section 99.

1971 undistributed income and capital surplus on hand

(3) For the purposes of this Act,

(a) in computing the 1971 undistributed income on hand of a non-resident-owned investment corporation at any time, there shall be deducted the amount, if any, by which,

(i) the corporation's 1971 undistributed income on hand at that time otherwise determined,

exceeds

(ii) the corporation's surplus determined in prescribed manner at the end of its 1971 fiscal year, for fiscal years ending before 1972 for which it was not taxable under section 70 of the *Income Tax Act* (Canada) as it read in its application to the 1971 fiscal year; and

1970-71, c. 63 (Can.)

(b) in computing the 1971 capital surplus on hand of a non-resident-owned investment corporation at any time, there shall be added to the amount thereof otherwise determined the amount of the excess described in clause *a*.

Election re capital gains dividend

(4) Where at any particular time after 1971 a dividend has become payable by a non-resident-owned investment corporation to shareholders of any class of shares of its capital stock, if the corporation so elects in respect of the full amount of the dividend, in prescribed manner and in prescribed form and at or

before the particular time or the first day on which any part of the dividend was paid if that day is earlier than the particular time, the following rules apply,

- (a) the dividend shall be deemed to be a capital gains dividend to the extent that the portion thereof in excess of the corporation's 1971 undistributed income on hand immediately before the particular time does not exceed the corporation's capital gains dividend account immediately before the particular time; and
- (b) any amount received by another non-resident-owned investment corporation in a fiscal year as, on account or in lieu of payment of, or in satisfaction of the capital gains dividend shall not be included in computing the corporation's income for the fiscal year.

(5) In this section,

Interpre-
tation

- (a) "Canadian property" means property other than foreign property within the meaning given to that expression by section 206 of the *Income Tax Act* (Canada); 1970-71, c. 63
(Can.)
- (b) "capital gains dividend account" of a non-resident-owned investment corporation at any particular time means the amount, if any, by which the aggregate of the following amounts in respect of the period commencing January 1, 1972 and ending immediately after its last fiscal year ending before the particular time, namely,
 - (i) the corporation's capital gains for fiscal years ending in the period from dispositions in the period of Canadian property or shares of another non-resident-owned investment corporation, and
 - (ii) amounts received by the corporation in the period as, on account or in lieu of payment of, or in satisfaction of capital gains dividends from other non-resident-owned investment corporations,

exceeds the aggregate of

- (iii) the corporation's capital losses for fiscal years ending in the period from dispositions in the period of Canadian property or shares

of another non-resident-owned investment corporation,

- (iv) 25 per cent of the amount, if any, by which the aggregate of the corporation's capital gains for fiscal years ending in the period from dispositions in the period of taxable Canadian property or property that would be taxable Canadian property if at no time in the period the corporation had been resident in Canada, exceeds the aggregate of its capital losses for those fiscal years from dispositions in the period of such property, and
- (v) all capital gains dividends that became payable by the corporation before the particular time;

(c) "non-resident-owned investment corporation" means a corporation incorporated in Canada that, throughout the whole of the period commencing on the later of June 18, 1971 and the day on which it was incorporated and ending on the last day of the fiscal year in respect of which the expression is being applied, complied with the following conditions,

- (i) all of its issued shares and all of its bonds, debentures and other funded indebtedness were,

- (A) beneficially owned by non-resident persons, other than any foreign affiliate as defined in paragraph b of subsection 1 of section 95 of the *Income Tax Act* (Canada),

- (B) owned by trustees for the benefit of non-resident persons or their unborn issue, or

- (C) owned by a non-resident-owned investment corporation, all of the issued shares of which and all of the bonds, debentures and other funded indebtedness of which were beneficially owned by non-resident persons or owned by trustees for the benefit of non-resident persons or their unborn issue, or by two or more such corporations,

- (ii) its income for each fiscal year ending in the period was derived from,

- (A) ownership of or trading or dealing in bonds, shares, debentures, mortgages, hypothecs, bills, notes, or other similar property or any interest therein,
 - (B) lending money with or without security,
 - (C) rents, hire of chattels, charterparty fees or remunerations, annuities, royalties, interest or dividends,
 - (D) estates or trusts, or
 - (E) disposition of capital property,
- (iii) not more than 10 per cent of its gross revenue for each fiscal year ending in the period was derived from rents, hire of chattels, charterparty fees or charterparty remunerations,
- (iv) its principal business in each fiscal year ending in the period was not,
- (A) the making of loans, or
 - (B) trading or dealing in bonds, shares, debentures, mortgages, hypothecs, bills, notes or other similar property or any interest therein,
- (v) it has, not later than 90 days after the commencement of its first fiscal year commencing after 1971 elected in prescribed manner to be taxed under section 133 of the *Income Tax Act* ^{1970-71, c. 63} (Canada), and
- (vi) it has not, before the end of the last fiscal year in the period, revoked in prescribed manner the election so made by it, and it has paid the taxes payable for such fiscal year under section 133 of the *Income Tax Act* (Canada),

except that in no case shall a new corporation, within the meaning given to that expression by section 81, formed as a result of an amalgamation after June 18, 1971 of two or more predecessor corporations be regarded as a non-resident-owned investment corporation unless each of the predecessor corporations was, immediately before the amalgamation, a non-resident-owned investment corporation; and

- (d) "taxable dividend" does not include a capital gains dividend. *New.*

Non-resident-owned corporation deemed not to be Canadian or private corporation

111. Notwithstanding any other provision of this Act, a non-resident-owned investment corporation that would, but for this section, be a Canadian corporation or private corporation shall be deemed not to be a Canadian corporation or private corporation, as the case may be, except for the purposes of subsection 1 of section 77 and section 81. *New.*

Patronage Dividends

Deduction in computing income

112.—(1) Notwithstanding anything in this Part, there may be deducted, in computing the income of a corporation for a fiscal year, the aggregate of the payments made, pursuant to allocations in proportion to patronage, by the corporation,

- (a) within the fiscal year or within 12 months thereafter to its customers of the fiscal year; and
- (b) within the fiscal year or within 12 months thereafter to its customers of a previous fiscal year, the deduction of which from income of a previous fiscal year was not permitted. R.S.O. 1970, c. 91, s. 49 (1).

Limitation where non-member customers

(2) Notwithstanding subsection 1, if the corporation has not made allocations in proportion to patronage in respect of all its customers of the fiscal year at the same rate, with appropriate differences for different types or classes of goods, products or services, or classes, grades or qualities thereof, the amount that may be deducted under this section is an amount equal to the lesser of,

- (a) the aggregate of the payments mentioned in subsection 1; and
- (b) the aggregate of,
 - (i) the part of the income of the corporation for the fiscal year attributable to business done with members, and
 - (ii) the allocations in proportion to patronage made to non-member customers of the fiscal year. R.S.O. 1970, c. 91, s. 49 (2).

Interpretation

- (3) For the purposes of this section,
 - (a) "allocation in proportion to patronage" for a fiscal year means an amount credited by a corporation to a

customer of that fiscal year on terms that the customer is entitled to or will receive payment thereof, computed at a rate in relation to the quantity, quality or value of the goods or products acquired, marketed, handled, dealt in or sold, or services rendered by the corporation from, on behalf of or to the customer, whether as principal or as agent of the customer or otherwise, with appropriate differences in the rate for different classes, grades or qualities thereof, if,

- (i) the amount was credited,
 - (A) within the fiscal year or within 12 months thereafter, and
 - (B) at the same rate in relation to quantity, quality or value aforesaid as the rate at which amounts were similarly credited to all other customers of that fiscal year who were members or to all other customers of that fiscal year, as the case may be, with appropriate differences aforesaid for different classes, grades or qualities, and
- (ii) the prospect that amounts would be so credited was held forth by the corporation to its customers of that fiscal year who were members or non-member customers of that fiscal year, as the case may be;
- (b) "consumer goods or services" means goods or services the cost of which was not deductible by the person in computing the income from a business or property;
- (c) "customer" means a customer of a corporation and includes a person who sells or delivers goods or products to the corporation, or for whom the corporation renders services;
- (d) "income of the corporation attributable to business done with members" of any fiscal year means that proportion of the income of the corporation for the fiscal year, before making any deduction under this section, that the value of the goods or products acquired, marketed, handled, dealt in or sold or services rendered by the corporation from, on behalf of, or for members, is of the total value of goods or products acquired, marketed, handled, dealt in or sold or services rendered by the corporation from, on behalf of, or for all customers during the fiscal year;

- (e) "member" means a person who is entitled as a member or shareholder to full voting rights in the conduct of the affairs of the corporation or of another corporation of which the corporation is a subsidiary wholly-owned corporation;
- (f) "non-member customer" means a customer who is not a member; and
- (g) "payment" includes,
 - (i) the issue of a certificate of indebtedness or shares of the corporation or of another corporation of which the corporation is a subsidiary wholly-owned corporation if the corporation or that other corporation has in the fiscal year or within 12 months thereafter disbursed an amount of money equal to the aggregate face value of all certificates or shares so issued in the course of redeeming or purchasing certificates of indebtedness or shares of the corporation or that other corporation previously issued,
 - (ii) the application by the corporation of an amount to a member's liability to the corporation, including, without restricting the generality of the foregoing, an amount applied in fulfilment of an obligation of the member to make a loan to the corporation and an amount applied on account of payment for shares issued to a member, pursuant to a by-law of the corporation, pursuant to statutory authority or at the request of the member, or
 - (iii) the amount of a payment or transfer by the corporation that, under subsection 2 of section 58, is required to be included in computing the income of a member. R.S.O. 1970, c. 91, s. 49 (4).

Holding forth
prospect of
allocations

(4) For the purpose of this section a corporation shall be deemed to have held forth the prospect that amounts would be credited to a customer of a fiscal year by way of allocation in proportion to patronage, if,

- (a) throughout the fiscal year the statute under which the corporation was incorporated or registered, its charter, articles of association or by-laws or its contract with the customer held forth the prospect that amounts would be so credited to customers who are members or non-member customers, as the case may be; or

- (b) prior to the commencement of the fiscal year or prior to such other day as may be prescribed for the class of business in which the corporation is engaged, the corporation has published an advertisement in prescribed form in a newspaper or newspapers of general circulation throughout the greater part of the area in which the corporation carried on business holding forth that prospect to customers who are members or non-member customers, as the case may be, and has filed copies of the newspapers with the Minister before the end of the 30th day of the fiscal year or within 30 days from the prescribed day, as the case may be. R.S.O. 1970, c. 91, s. 49 (5).

(5) For greater certainty, the amount of any payment pursuant to an allocation in proportion to patronage is the amount thereof determined before deducting any amount required by subsection 3 of section 135 of the *Income Tax Act* (Canada) to be deducted or withheld from that payment. *New.*

Amount of payment to customer
1970-71, c. 63 (Can.)

(6) Where a payment pursuant to an allocation in proportion to patronage, other than an allocation in respect of consumer goods or services, has been received by a corporation, the amount of the payment shall be included in computing the recipient's income for the fiscal year in which the payment was received and, without restricting the generality of the foregoing, where a certificate of indebtedness or a share was issued to a corporation pursuant to an allocation in proportion to patronage, the amount of the payment by virtue of the issue thereof shall be included in computing the recipient's income for the fiscal year in which the certificate or share was received and not in computing its income for the fiscal year in which the indebtedness was subsequently discharged or the share was redeemed. R.S.O. 1970, c. 91, s. 49 (7).

Payment to customer to be included in income

Co-operative Corporations

113.—(1) Notwithstanding any other provision of this Act, a co-operative corporation that would, but for this section, be a private corporation shall be deemed not to be a private corporation. *New.*

Co-operative corporation deemed not to be private corporation

(2) In this section, "co-operative corporation" means a corporation that was incorporated by or under a law of Canada or a province providing for the establishment of the corporation or respecting the establishment of co-operative corporations for the purpose of marketing, including processing incident to or connected therewith, natural products belonging to or acquired from its members or customers, of purchasing

Meaning of expression "co-operative corporation"

supplies, equipment or household necessities for or to be sold to its members or customers or of performing services for its members or customers, if,

- (a) the statute by or under which it was incorporated, its charter, articles of association or by-laws or its contracts with its members or its members and customers held forth the prospect that payments would be made to them in proportion to patronage;
 - (b) none of its members, except other co-operative corporations, have more than one vote in the conduct of the affairs of the corporation; and
 - (c) at least 90 per cent of its members are individuals or other co-operative corporations and at least 90 per cent of its shares, if any, are held by such persons.
- R.S.O. 1970, c. 91, s. 48 (4).

Credit Unions

Deductions
in computing
income

114.—(1) In computing the income for a fiscal year of a credit union or a savings and credit union, in this Act referred to as a “credit union”, that is a corporation,

- (a) there may be deducted as a reserve in respect of bonds, debentures, agreements of sale, mortgages or hypothecs, in lieu of any deduction in respect thereof under clause *n* of subsection 1 of section 24, such amount as may be claimed by the credit union, not exceeding a prescribed amount;
- (b) there may be deducted as a reserve in respect of debts owing to the credit union, other than any debt described in clause *a*, in lieu of any deduction in respect thereof under clause *n* of subsection 1 of section 24, such amount as may be claimed by the credit union, not exceeding a prescribed amount;
- (c) there shall be included any amount deducted under clause *a* or *b* as a reserve in computing the credit union’s income for the immediately preceding fiscal year; and
- (d) no deduction may be made under section 35.

Payments
pursuant to
allocations in
proportion to
borrowing

(2) Notwithstanding anything in this Part, there may be deducted, in computing the income for a fiscal year of a credit union that is a corporation, the aggregate of the pay-

ments made, pursuant to allocations in proportion to borrowing, by the credit union within the fiscal year or within 12 months thereafter to members of the credit union, to the extent that such payments were not deductible under this subsection in computing the income of the credit union for the immediately preceding fiscal year.

(3) For the purposes of this Act, any annual or other periodic amount paid or payable by a credit union to a member thereof in respect of his share in the credit union, other than any such amount paid or payable as or on account of capital, shall be deemed to have been paid or payable, as the case may be, by the credit union as interest and, when received by the member, to have been received by him as interest.

Amount paid
in respect
of member's
share deemed
paid as
interest

(4) Where a payment has been received by a corporation from a credit union in a fiscal year in respect of an allocation in proportion to borrowing, the amount thereof shall, if the money so borrowed was used by the corporation for the purpose of earning income from a business or property, otherwise than to acquire property the income from which would be exempt or to acquire a life insurance policy, be included in computing the corporation's income for the fiscal year.

Member's
income

(5) In this section,

Interpre-
tation

- (a) "allocation in proportion to borrowing" for a fiscal year means an amount credited by a credit union to a person who was a member of the credit union in the fiscal year on terms that the member is entitled to or will receive payment thereof, computed at a rate in relation to,
 - (i) the amount of interest payable by the member on money borrowed from the credit union, or
 - (ii) the amount of money borrowed by the member from the credit union;

if the amount was credited within the fiscal year or within 12 months thereafter and at the same rate in relation to the amount of interest or money, as the case may be, as the rate at which amounts were similarly credited in the fiscal year to all other members of the credit union,

- (b) "credit union" means a corporation, association or federation incorporated or organized as a credit union or co-operative credit society if,
 - (i) it derived its revenues primarily from,

- (A) loans made to, or cashing cheques for, members,
 - (B) bonds of, or guaranteed by, the Government of Canada or a province, or a Canadian municipality, or bonds of a municipal or public body performing a function of government in Canada,
 - (C) bonds of a corporation, commission or association not less than 90 per cent of the shares or capital of which was owned by the Government of Canada or a province or by a municipality in Canada, or
 - (D) loans made to a co-operative credit society of which it is a member, or
- (ii) the members thereof were corporations or associations,
- (A) incorporated or organized as credit unions, substantially all of which derived their revenues primarily from loans made to members or from bonds of or guaranteed by, the Government of Canada or of a province,
 - (B) incorporated, organized or registered under, or governed by a law of Canada or a province with respect to co-operatives, or
 - (C) incorporated or organized for charitable purposes,

or were corporations or associations no part of the income of which was payable to, or otherwise available for the personal benefit of, any shareholder or member thereof;

- (c) "member" of a credit union means a person who is entitled as a member or shareholder to full voting rights in the conduct of the affairs of the credit union.

Credit union
deemed not
to be private
corporation

(6) Notwithstanding any other provision of this Act, a credit union that would, but for this section, be a private corporation shall be deemed not to be a private corporation. *New.*

Insurance Corporations

115.—(1) For the purpose of this section, an “insurance corporation” or “insurer” means any corporation with or without share capital, to which section 138 of the *Income Tax Act* (Canada) applies. R.S.O. 1970, c. 91, s. 41 (1). Interpre-
tation
1970-71, c. 63
(Can.)

(2) Notwithstanding any other provision of this Act and in order that insurance corporations or insurers may be dealt with under this Act as they will be dealt with under Part I of the *Income Tax Act* (Canada), it is hereby declared that for the purpose of section 8, the taxable incomes of such corporations that transact business in Ontario shall, for the purposes of this Act, be the same as the taxable incomes of such corporations as determined for the purposes of Part I of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 41 (2). Calculation
of taxable
income

116. Where a life insurance corporation that is incorporated under the laws of a province has applied an amount in payment for shares of the corporation purchased by it under the authority of a law of the province that provides for the conversion of the corporation into a mutual corporation by the purchase of its shares in accordance with the provisions of such law, Conversion of
provincial
life
insurance
corporation
into mutual
corporation

- (a) section 19 does not apply to require the inclusion, in computing the income of a shareholder of the corporation of any part of that amount; and
- (b) no part of that amount shall be deemed, for the purposes of subsection 2 of section 115, to have been paid to shareholders or, for the purposes of section 78, to have been received as a dividend. R.S.O. 1970, c. 91, s. 42.

117. Notwithstanding any other provision of this Act, a life insurance corporation that is resident in Canada shall be deemed to be a public corporation. *New.* Life
insurance
corporation
deemed
to be public
corporation

DIVISION G—DEFERRED AND

OTHER SPECIAL INCOME ARRANGEMENTS


Employees Profit Sharing Plans

118.—(1) In this Act, “employees profit sharing plan” means an arrangement under which payments computed by reference to the profits from the business of a corporation or by reference to the profits from the business of a corporation and the profits, if any, from the business of a person with whom the corporation does not deal at arm’s length are made by the corporation to a trustee in trust for the benefit of officers or employees of the corporation or of a person with “Employees
profit sharing
plan” defined

whom the corporation does not deal at arm's length, whether or not payments are also made to the trustee by the officers or employees, and under which the trustee has, since the commencement of the plan or the end of 1949, whichever is later, each year allocated either contingently or absolutely to individual officers or employees,

- (a) all amounts received by him from the corporation or from a person with whom the corporation does not deal at arm's length;
- (b) all profits from the trust property computed without regard to any capital gain made by the trust or capital loss sustained by it at any time since the end of 1955;
- (c) all capital gains and capital losses of the trust for fiscal years ending after 1971; and
- (d) all amounts in respect of which employees who have, after 1971, ceased to be beneficiaries under the arrangement are deemed by subsection 9 of section 144 of the *Income Tax Act* (Canada) to have made a payment on account of tax under Part I of that Act,

1970-71, c. 63
(Can.)

in such manner that the aggregate of all such amounts, profits, gains and losses, minus such portion thereof as has been paid to beneficiaries under the trust, is allocated either contingently or absolutely to officers or employees who are beneficiaries thereunder. 

No tax while
trust
governed
by a plan

(2) No tax is payable under this Part on the taxable income of a trust for a fiscal year during which the trust was governed by an employees profit sharing plan. R.S.O. 1970, c. 91, s. 51 (2).

Employer's
contribution
to trust
deductible

(3) An amount paid by a corporation to a trustee under an employees profit sharing plan during a fiscal year or within 120 days thereafter may be deducted in computing the corporation's income for the fiscal year to the extent that it was not deductible in computing income for a previous fiscal year. R.S.O. 1970, c. 91, s. 51 (3).

Payments
out of
profits

(4) Where the terms of an arrangement under which a corporation makes payments to a trustee specifically provide that the payments shall be made "out of profit", such arrangement shall, if the corporation has so elected under subsection 10 of section 144 of the *Income Tax Act* (Canada), be deemed

for the purpose of subsection 1, to be an arrangement for payments "computed by reference to the profits from the business of the corporation". R.S.O. 1970, c. 91, s. 51 (4).

(5) Where an employees profit sharing plan is accepted for registration by the Minister as a deferred profit sharing plan, the fiscal year of the trust governed by the employees profit sharing plan shall be deemed to have ended immediately before the plan is deemed to have become registered as a deferred profit sharing plan pursuant to subsection 5 of section 147 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 51 (5). ^{Fiscal year of trust} 1970-71, c. 63 (Can.)

Registered Supplementary Unemployment Benefit Plans

119.—(1) In this Act,

Interpre-
tation

(a) "registered supplementary unemployment benefit plan" means a supplementary unemployment benefit plan accepted by the Minister for registration for the purposes of this Act in respect of its constitution and operations for the fiscal year under consideration; and

(b) "supplementary unemployment benefit plan" means an arrangement, other than an arrangement in the nature of superannuation or pension fund or plan or an employees profit sharing plan, under which payments are made by a corporation to a trustee in trust exclusively for the payment of periodic amounts to employees or former employees of the corporation who are or may be laid off for any temporary or indefinite period. R.S.O. 1970, c. 91, s. 52 (1).

(2) The Minister shall be deemed to have accepted for registration as a supplementary unemployment benefit plan under this Act every supplementary unemployment benefit plan that is accepted for registration by the Minister of National Revenue for Canada as a supplementary unemployment benefit plan under section 145 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 52 (2). ^{Plan deemed accepted}

(3) No tax is payable under this Part by a trust upon the taxable income of the trust for a period during which the trust was governed by a registered supplementary unemployment benefit plan. R.S.O. 1970, c. 91, s. 52 (3). ^{No tax while trust governed by plan}

(4) There shall be included in computing the income for a fiscal year of a corporation that, as an employer, has made ^{Amounts received on amendment or winding-up of plan}

any payment to a trustee under a supplementary unemployment benefit plan, any amount received by the corporation in the fiscal year as a result of an amendment to or modification of the plan or as a result of the termination or winding-up of the plan. R.S.O. 1970, c. 91, s. 52 (5).

Payments
by employer
deductible

(5) An amount paid by a corporation to a trustee under a registered supplementary unemployment benefit plan during a fiscal year or within 30 days thereafter may be deducted in computing the corporation's income for the fiscal year to the extent that it was not deductible in computing income for a previous fiscal year. R.S.O. 1970, c. 91, s. 52 (4).

Deferred Profit Sharing Plans

Interpre-
tation

120.—(1) In this Act,

(a) "deferred profit sharing plan" means a profit sharing plan accepted by the Minister for registration for the purposes of this Act; and

(b) "profit sharing plan" means an arrangement under which payments computed by reference to the profits of a corporation from its business or by reference to the profits of a corporation from its business and the profits, if any, from the business of a person with whom the corporation does not deal at arm's length are or have been made by the corporation to a trustee in trust for the benefit of employees of that corporation or employees of any other person, whether or not payments are or have been also made to the trustee by the employees. R.S.O. 1970, c. 91, s. 53 (1).

Acceptance
of plan for
registration

(2) The Minister shall be deemed to have accepted for registration as a deferred profit sharing plan under this Act every profit sharing plan that is deemed to be registered by the Minister of National Revenue for Canada as a deferred profit sharing plan under section 147 of the *Income Tax Act* (Canada), and such plan shall be deemed to have been registered by the Minister on the same date as it is deemed to be registered as a deferred profit sharing plan under subsection 5 of section 147 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 53 (2).

1970-71, c. 63
(Can.)

Deferred
plan not
employees
profit
sharing plan

(3) For a fiscal year during which a plan is a deferred profit sharing plan, the plan shall be deemed, for the purposes of this Act, not to be an employees profit sharing plan. R.S.O. 1970, c. 91, s. 53 (4).

(4) No tax is payable under this Part on the taxable income of the trust for a fiscal year during which the trust was governed by a deferred profit sharing plan. R.S.O. 1970, c. 91, s. 53 (5). No tax while trust governed by plan

(5) There may be deducted in computing the income of a corporation for a fiscal year the aggregate of each amount paid by the corporation in the fiscal year or within 120 days after the end of the fiscal year, to a trustee under a deferred profit sharing plan for the benefit of employees of the corporation who are beneficiaries under the plan, not exceeding, however, in respect of each individual employee in respect of whom the amounts so paid by the corporation were paid by it, an amount equal to the least of, Amount of employer's contribution deductible

- (a) the aggregate of each amount so paid by the corporation in respect of that employee;
- (b) \$2,500 minus the amount, if any, deductible under clause s of subsection 1 of section 24 in respect of that employee in computing the income of the corporation for the fiscal year; and
- (c) 20 per cent of the salary or wages paid in the fiscal year to the employee by the corporation,

to the extent that such amount was not deductible in computing the income of the employer for a previous fiscal year. R.S.O. 1970, c. 91, s. 53 (6), *amended*.

(6) Notwithstanding subsection 5, the amount that a corporation is entitled to deduct under subsection 5 in computing its income for a fiscal year shall be neither more nor less than the amount that it deducts and is allowed as a deduction in computing its income for the same fiscal year under subsections 8 and 9 of section 147 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 53 (7). Limitation on deduction 1970-71, c. 63 (Can.)

(7) Where funds or property of a trust governed by a deferred profit sharing plan have been appropriated in any manner whatsoever to or for the benefit of a corporation that is, Appropriation of trust property by employer

- (a) an employer by whom payments are made in trust to a trustee under the plan; or
- (b) a corporation with whom that employer does not deal at arm's length,

otherwise than in payment of or on account of shares of the capital stock of either that employer or the corporation, as

the case may be, purchased by the trust, the amount or value of the funds or property so appropriated shall be included in computing the income of the employer or the corporation, as the case may be, for the fiscal year in which the funds or property were so appropriated, unless such funds or property or an amount in lieu thereof equal to the amount or value of such funds or property were repaid to the trust within one year from the end of the fiscal year, and it is established by subsequent events or otherwise that the repayment was not made as part of a series of appropriations and repayments. R.S.O. 1970, c. 91, s. 53 (8).

Revocation of
registration

(8) The Minister shall be deemed to have revoked the registration of a profit sharing plan as a deferred profit sharing plan as and when the Minister of National Revenue for Canada revokes it under subsection 14 of section 147 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 53 (3).

1970-71, c. 63
(Can.)

Rules
applicable
to revoked
plan

(9) Where the Minister is deemed to have revoked the registration of a profit sharing plan as a deferred profit sharing plan under subsection 8, the plan, hereinafter referred to as the "revoked plan", shall be deemed, for the purposes of this Act, not to be a deferred profit sharing plan, and, notwithstanding any other provision of this Act, the following rules shall apply,

- (a) subsection 4 does not apply to exempt the trust governed by the plan from tax under section 8 upon the taxable income of the trust for a fiscal year in which, at any time therein, the trust was governed by the revoked plan;
- (b) no deduction shall be made by a corporation in computing its income for a fiscal year in respect of an amount paid by it under the plan at a time when it was a revoked plan;
- (c) there shall be included in computing the income of a corporation for a fiscal year the amount or value of any funds or property appropriated to or for the benefit of the corporation in the fiscal year that, by virtue of subsection 7, would have been so included if the revoked plan had been a deferred profit sharing plan at the time of the appropriation of the funds or property;
- (d) the revoked plan shall be deemed, for the purposes of this Act, not to be an employees profit sharing plan. R.S.O. 1970, c. 91, s. 53 (9).

(10) Where the terms of an arrangement under which a corporation makes payments to a trustee specifically provide that the payments shall be made "out of profits", such arrangement shall be deemed, for the purpose of clause *b* of subsection 1 to be an arrangement for payments "computed by reference to the profits of a corporation from its business". R.S.O. 1970, c. 91, s. 53 (10). Payments out of profits

Life Insurance Policies

121. Where the provisions of subsection 2 of section 142 of the *Income Tax Act* (Canada) or section 148 of that Act apply to a corporation, it is hereby declared that the amount to be included in its income for a fiscal year for the purposes of this section shall be the same as is required to be included for the purposes of subsection 2 of section 142 of the *Income Tax Act* (Canada) or section 148 of that Act for the same fiscal year. Amounts included in computing policy-holder's income
1970-71, c. 63 (Can.)

DIVISION H—EXEMPTIONS

122.—(1) No tax is payable under this Part upon the taxable income of a corporation for a period when that corporation was, Exemptions:

- (a) a municipality in Canada, or a municipal or public body performing a function of government in Canada; R.S.O. 1970, c. 91, s. 5 (42) (a). Municipal authorities
- (b) a corporation, commission or association not less than 90 per cent of the shares or capital of which was owned by Her Majesty in right of Canada or a province or by a Canadian municipality, or a wholly-owned corporation subsidiary to such a corporation, commission or association but this clause does not apply, Municipal or provincial corporations
 - (i) to such corporation, commission or association if a person other than Her Majesty in right of Canada or a province or a Canadian municipality had, during the period, a right under a contract, in equity or otherwise either immediately or in the future and either absolutely or contingently, to, or to acquire, shares or capital of that corporation, commission or association, and
 - (ii) to such wholly-owned subsidiary corporation if a person other than Her Majesty in right of Canada or a province or a Canadian municipality had, during the period, a right under a contract, in equity or otherwise, either immedi-

ately or in the future and either absolutely or contingently, to, or to acquire, shares or capital of that wholly-owned subsidiary corporation or of the corporation, commission or association of which it is a wholly-owned subsidiary corporation; R.S.O. 1970, c. 91, s. 5 (42) (b).

Certain
organizations

- (c) an agricultural organization, a board of trade or a chamber of commerce, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof; R.S.O. 1970, c. 91, s. 5 (42) (c).

Charitable
organizations

- (d) a charitable organization all the resources of which were devoted to charitable activities carried on by the organization itself and no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof; R.S.O. 1970, c. 91, s. 5 (42) (d).

Non-profit
corporation

- (e) a corporation that was constituted exclusively for charitable purposes, no part of whose income was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof, that has not, since June 1, 1950, acquired control of any other corporation and that, during the period,

(i) did not carry on any business,

(ii) had no debts incurred since June 1, 1950, other than obligations arising in respect of salaries, rents and other current operating expenses, and

(iii) except in the case of a corporation that was, before 1940, constituted exclusively for charitable purposes, expended amounts each of which is,

(A) an expenditure in respect of charitable activities carried on by the corporation itself,

(B) a gift to an organization in Canada the income of which for the period is exempt from tax under this Part by virtue of clause *d*,

(C) a gift to a corporation resident in Canada the income of which for the period is exempt from tax under this Part by virtue of this clause, or

(D) a gift to Her Majesty in right of Canada or a province or to a Canadian municipality,

and the aggregate of which is not less than 90 per cent of the corporation's income for the period; R.S.O. 1970, c. 91, s. 5 (42) (e).

(f) a corporation that was constituted exclusively for the purpose of providing low-cost housing accommodation for the aged, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof; R.S.O. 1970, c. 91, s. 5 (42) (g). Certain housing corporations

(g) a corporation that was constituted exclusively for the purpose of carrying on or promoting scientific research, no part of whose income was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof, that has not acquired control of any other corporation and that, during the period, Non-profit corporation for scientific research

(i) did not carry on any business, and

(ii) expended amounts in Canada each of which is,

(A) an expenditure on scientific research directly undertaken by or on behalf of the corporation, or

(B) a payment to an association, university, college or research institution, described in subclause ii or iii of clause *a* of subsection 1 of section 39 to be used for scientific research,

and the aggregate of which is not less than 90 per cent of the corporation's income for the period; R.S.O. 1970, c. 91, s. 5 (42) (f).

(h) a labour organization or society or a benevolent or fraternal benefit society or order; R.S.O. 1970, c. 91, s. 5, (42) (h). Labour organizations

- Non-profit organizations (i) a club, society or association organized and operated exclusively for social welfare, civic improvement, pleasure or recreation or for any other purpose except profit, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof; R.S.O. 1970, c. 91, s. 5 (42) (i).
- Mutual insurance corporations (j) a mutual insurance corporation that received its premiums wholly from the insurance of churches, schools or other charitable organizations; R.S.O. 1970, c. 91, s. 5 (42) (j).
- Housing corporation (k) a limited dividend housing corporation within the meaning of that expression as defined by the *National Housing Act* (Canada); R.S.O. 1970, c. 91, s. 5 (42) (l).
- R.S.C. 1970, c. N-10
- Pension corporation (l) a corporation established or incorporated solely in connection with, or for the administration of, a registered pension fund or plan; R.S.O. 1970, c. 91, s. 5 (42) (p).
- Farmers' and fishermen's insurers (m) an insurer, who was engaged during the period in no business other than insurance, if, in the opinion of the Minister on the advice of the Superintendent of Insurance, 50 per cent of its gross premium income for the period was in respect of the insurance of farm property, property used in fishing or residences of farmers or fishermen. R.S.O. 1970, c. 91, s. 5 (42) (s).
- Income not to include taxable capital gains (2) For the purposes of clauses c to g inclusive of subsection 1 and clause i of subsection 1, in computing the part, if any, of any income that was payable to or otherwise available for the personal benefit of any corporation or the aggregate of any amounts that is not less than a percentage specified in any of those clauses of any income for a period, the amount of such income shall be deemed to be the amount thereof otherwise determined less the amount of any taxable capital gains included therein. *New.*
- subs. 1 not applicable (3) Subsection 1 does not apply in respect of the taxable income of a benevolent or fraternal benefit society or order from carrying on a life insurance business. R.S.O. 1970, c. 91, s. 5 (43).
- Idem (4) For the purposes of subsection 3, the taxable income of a benevolent or fraternal benefit society or order from carrying on a life insurance business shall be computed on the

assumption that it had no income or loss from any other sources. R.S.O. 1970, c. 91 s. 5 (44).

(5) Where it is necessary for the purpose of this section to ascertain the taxable income of a corporation for a period that is a part of a fiscal year, the taxable income for the period shall be deemed to be the proportion of the taxable income for the fiscal year that the number of days in the period is of the number of days in the fiscal year. R.S.O. 1970, c. 91, s. 5 (45). Apportionment rule

(6) For the purpose of clause *e* of subsection 1,

(a) a corporation is controlled by another corporation if more than 50 per cent of its issued share capital, having full voting rights under all circumstances, belongs to,

When deemed
not to have
acquired
control of
another
corporation

(i) the other corporation, or

(ii) the other corporation and persons with whom the other corporation does not deal at arm's length,

but the corporation shall be deemed not to have acquired control of another corporation if it has not purchased, or otherwise acquired for a consideration, any of the shares in the capital stock of that other corporation;

(b) there shall be included in computing a corporation's income all gifts received by the corporation other than, Gifts

(i) a gift received subject to a trust or direction that the property given, or property substituted therefor, is to be held permanently by the corporation for the purpose of gaining or producing income therefrom, or

(ii) a gift or a portion of a gift in respect of which it is established that the donor has not been allowed a deduction under clause *a* of subsection 1 of section 98 or a gift made by a person who was not taxable under section 2 of the *Income Tax Act* (Canada) for the fiscal year in which the gift was made. R.S.O. 1970, c. 91, s. 5 (46). 1970-71,
c. 63 (Can.)

(7) For the purpose of clause *g* of subsection 1,

Idem

(a) a corporation is controlled by another corporation if more than 50 per cent of its issued share capital,

having full voting rights under all circumstances, belongs to,

(i) the other corporation, or

(ii) the other corporation and persons with whom the other corporation does not deal at arm's length,

but a corporation shall be deemed not to have acquired control of a corporation if it has not purchased, or otherwise acquired for a consideration, any of the shares in the capital stock of that corporation; and

(b) there shall be included in computing a corporation's income all gifts received by the corporation and all amounts contributed to the corporation to be used for scientific research. R.S.O. 1970, c. 91, s. 5 (47).

Rules

(8) In computing the income of a corporation for the purpose of determining whether it is described by clause *e* or *g* of subsection 1 for a fiscal year,

(a) there may be deducted an amount not exceeding its income for the year preceding the fiscal year computed without including or deducting any amount under this subsection; and

(b) there shall be included any amount that has been deducted under this subsection for the immediately preceding fiscal year. R.S.O. 1970, c. 91, s. 5 (48).

Election by charitable corporation

(9) For the purpose of determining whether a corporation has complied with the requirements of subclause iii of clause *e* of subsection 1 or subclause ii of clause *g* of subsection 1 for its first fiscal year after its incorporation, the whole or any part of amounts expended by it in the immediately subsequent fiscal year shall, if it so elects, be deemed to have been expended by it in the first fiscal year and not in the subsequent fiscal year. R.S.O. 1970, c. 91, s. 5 (49).

PART III

DIVISION A—LIABILITY FOR CAPITAL TAX

Liability for capital tax

123. Except as otherwise provided in this Part, every corporation that is liable to the taxes imposed under this Act shall pay a capital tax as hereinafter required,

- (a) in the case of a corporation to which subsection 1 of section 2 applies, upon its taxable paid-up capital determined in accordance with Division B of this Part; and
 - (b) in the case of a corporation to which clause *a* or *b* of subsection 2 or 3 of section 2 applies, upon its taxable paid-up capital employed in Canada determined in accordance with Division C of this Part.
- R.S.O. 1970, c. 91, s. 4 (1), *amended*.

124. Except as provided in section 125, the taxable paid-up ^{Taxable} capital of a corporation shall be measured as at the close of the ^{paid-up} fiscal year for which the tax imposed by section 123 is levied and is its taxable paid-up capital determined under Division B of this Part. R.S.O. 1970, c. 91, s. 69.

125. Notwithstanding section 124, the taxable paid-up ^{idem} capital of a corporation that is liable to the taxes imposed under this Act by virtue of clause *a* or *b* of subsection 2 or 3 of section 2, referred to in this Part as "taxable paid-up capital employed in Canada", shall be measured as at the close of the fiscal year for which the tax imposed by section 123 is levied and is its taxable paid-up capital employed in Canada determined under Division C of this Part. R.S.O. 1970, c. 91, s. 6 (17).

DIVISION B—COMPUTATION OF TAXABLE PAID-UP CAPITAL

126. The paid-up capital of a corporation for a fiscal year ^{World} is its paid-up capital as it stood at the close of the fiscal year ^{paid-up} capital and includes,

- (a) the paid-up capital stock of the corporation;
- (b) its earned, capital and any other surplus;
- (c) all its reserves, whether created from income or otherwise, except any reserve the creation of which is allowed as a charge against income under the provisions of Part II, except clause *p* of subsection 1 of section 24 thereof;
- (d) all sums or credits advanced or loaned to the corporation by its shareholders directly or indirectly or by any other corporation, excluding such sums or credits of a non-capital nature advanced or loaned to the corporation by a bank; and
- (e) all its indebtedness, whether assumed or undertaken by it, represented by bonds, bond mortgages, de-

bentures, income bonds, income debentures, mortgages, lien notes and any other securities to which the property of the corporation or any of it is subject. R.S.O. 1970, c. 91, s. 70, *amended*.

Deductions
from paid-up
capital

127.—(1) For the purpose of computing the taxable paid-up capital of a corporation for a fiscal year, there may be deducted from its paid-up capital as at the close of the fiscal year such of the following amounts as are applicable,

Goodwill

- (a) the amount of the goodwill or other intangible thing included as an asset to the extent that such goodwill or other intangible thing in the opinion of the Minister has no value, but this deduction applies to no more than 50 per cent of the book value of such goodwill or other intangible thing;

Discount on
shares
R.S.O. 1970,
c. 89

- (b) the amount of the discount allowed on the sale of the shares of a corporation to which Part IV of *The Corporations Act* applies;

Investments

- (c) the amount that equals that proportion of the paid-up capital remaining after the deduction of the amounts provided by clauses *a* and *b* which the cost of the investments made by the corporation in the shares and bonds of other corporations, in loans and advances to other corporations and in the bonds, debentures and other securities of any government, municipal or school corporation bears to the total assets of the corporation remaining after the deductions of the amounts provided by clauses *a* and *b*, but cash on deposit with any corporation doing the business of a savings bank and amounts due by a corporation with its head office outside Canada to a subsidiary controlled corporation or a subsidiary wholly-owned corporation taxable under this Part shall be deemed not to be loans and advances to other corporations;

Capital
held in
mining

- (d) in the case of a corporation engaged in mining, the amount that equals that proportion of the paid-up capital remaining after the deduction of the amounts provided by clauses *a*, *b* and *c* which the total of,

(i) the amount held or used in the survey for exploration and development of minerals,

(ii) the amount invested in the mine as defined by *The Mining Tax Act*,

R.S.O. 1970,
c. 275

(iii) the amount invested in the plant and works necessary to and forming part of such mine, and

(iv) the amount invested in the plant and works necessary for the refinement of the ore taken from the mine,

bears to the total assets remaining after the deduction of the amounts provided by clauses *a*, *b* and *c*.
R.S.O. 1970, c. 91, s. 71 (1).

(2) For the purpose of this Part, “any other surplus”, ^{Interpretation} “total assets” and “cost of investments” includes any amount,

(a) by which any asset of a corporation is carried in its books of account or on its balance sheet in excess of the cost thereof;

(b) by which the value of an asset of a corporation has been written down and deducted from its income or undivided profits where such amount is not deductible under Part II;

(c) the original cost of any asset to which subclause ii, iii or iv of clause *d* of subsection 1 applies,

and excludes any amount,

(d) by which the value of an asset of a corporation has been written down and deducted from its income or undivided profits where such amount is deductible under the provisions of Part II except clause *p* of subsection 1 of section 24 thereof. R.S.O. 1970, c. 91, s. 71 (2), *amended*.

(3) In computing taxable paid-up capital or taxable paid-up ^{Artificial transaction} capital employed in Canada, as the case may be, no reduction may be made with respect to any transaction that, if permitted, would unduly or artificially reduce the taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be. *New*.

DIVISION C—COMPUTATION OF TAXABLE PAID-UP CAPITAL EMPLOYED IN CANADA OF NON-RESIDENT

128. Notwithstanding section 126, the paid-up capital ^{Paid-up capital employed in Canada of non-resident} employed in Canada of a corporation that is liable to the taxes imposed under this Act by virtue of clause *a* or *b* of subsection 2 or 3 of section 2, shall be deemed to be either,

- (a) the amount of which its taxable income earned in Canada determined for the purposes of this Act would be 8 per cent ; or
- (b) the amount by which,
 - (i) the amount of the total assets of the corporation in Canada exceeds,
 - (ii) the amount of the indebtedness of the corporation relating to its permanent establishments in Canada but excluding therefrom all amounts that are advanced or loaned to its permanent establishments in Canada by the corporation itself or by any other corporation or its shareholders directly or indirectly excluding such amounts of a non-capital nature advanced or loaned to the corporation by a bank, and all other indebtedness that is represented by bonds, bond mortgages, debentures, income bonds, income debentures, mortgages, lien notes and any other securities to which the property in Canada or any of it is subject,

whichever is greater and in such case, this section shall apply as though,

- (c) the corporation had no permanent establishment outside Canada ;
- (d) the paid-up capital employed in Canada as so determined were the total paid-up capital of the corporation ; and
- (e) the taxable paid-up capital employed in Canada were allocated among the provinces and territories of Canada as prescribed by the regulations. R.S.O. 1970, c. 91, s. 6 (17), *amended*.

Taxable
paid-up
capital
employed
in Canada

129. The taxable paid-up capital employed in Canada of a corporation to which this Division applies is its paid-up capital employed in Canada determined under section 128 minus the aggregate of such of the deductions permitted under section 127 as may reasonably be considered wholly applicable on the assumption that the only assets of the corporation were assets pertaining exclusively to its permanent establishments in Canada. R.S.O. 1970, c. 91, s. 6 (17), *amended*.

Idem

130. In computing the paid-up capital employed in Canada of a corporation for the purpose of this Part there shall not be included the amount of the paid-up capital invested in a ship

or aircraft operated by such corporation in Canada if such corporation is entitled, in computing its income for a fiscal year, to exclude the income for a fiscal year earned in Canada from the operation of such ship or aircraft under clause *c* of subsection 1 of section 75. R.S.O. 1970, c. 91, s. 71 (3).

DIVISION D—COMPUTATION OF CAPITAL TAX PAYABLE

131. The tax payable by a corporation under this Part upon its taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, in this section referred to as the “amount taxable”, is one-tenth of 1 per cent of the amount taxable. R.S.O. 1970, c. 91, s. 6 (1). Rate of
general
capital tax

132. There may be deducted from the tax otherwise payable under this Part by a corporation for a fiscal year an amount equal to one-tenth of 1 per cent of that portion of the taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, which is deemed to be used by the corporation in the fiscal year in each jurisdiction outside Ontario determined under rules prescribed by the regulations. R.S.O. 1970, c. 91, s. 6 (4). Deduction
from tax
on paid-up
capital

133. Notwithstanding section 132, and except as provided in subsection 1 of section 135, the tax payable under this Part shall in no case be less than \$50. R.S.O. 1970, c. 91, s. 6 (2). Minimum
tax

134. The tax imposed by this Part is not payable by any corporation that is liable to a tax under section 138, 139, 140, 141, 142 or 143 or by any corporation that is liable to the taxes imposed under this Act by virtue only of clause *c* of subsection 2 or 3 of section 2. R.S.O. 1970, c. 91, s. 6 (3). Exemptions

135.—(1) Except as provided in subsection 1 of section 30 every corporation referred to in clauses *b*, *c*, *d*, *e*, *f*, *g*, *h*, *i*, *k*, *l* and *m* of subsection 1 of section 122 shall, in lieu of the taxes payable under section 131 or 133 pay a tax of \$5. R.S.O. 1970, c. 91, s. 6 (18), *amended*. Idem

(2) Every corporation referred to in clause *j* of subsection 1 of section 122 and every corporation referred to in section 114 shall, in lieu of the tax payable under section 131 or 133, pay a tax of \$50. R.S.O. 1970, c. 91, s. 6 (19), *amended*. Idem

136. Where a corporation has a fiscal year of less than 365 days, the tax otherwise payable by it under this Part shall be in the proportion thereof that the number of days of such fiscal year bears to 365, except that this section does not apply, Apportion-
ment of
capital tax

- (a) to any corporation to which section 133 or 135 applies; or
- (b) to any corporation the fiscal year of which does not end on the same date each year, but that has been accepted for purposes of assessment under this Act. R.S.O. 1970, c. 91, s. 7.

Idem

137. Where the exemption under section 122 applies to a part of a fiscal year only, the provisions of subsections 1 and 2 of section 135 do not apply, and in any such case the tax otherwise payable under this Part shall be in the proportion thereof that the number of days of the fiscal year for which the exemption under subsection 1 of section 122 does not apply, bears to 365, except that the tax payable under this Part as reduced by this section shall in no case be less than \$50. *New.*

PART IV

LIABILITY FOR SPECIAL TAXES

Banks,
taxes on
paid-up
capital

138.—(1) Every bank shall for every fiscal year thereof pay,

- (a) a tax of one-fifth of 1 per cent of the paid-up capital stock thereof and one-tenth of 1 per cent on the reserve fund and undivided profits thereof;
- (b) an additional tax of \$3,000 for the principal office in Ontario and \$200 for each additional office, branch or agency in Ontario, but in the case of such additional offices, branches and agencies that were open during the fiscal year fewer than 250 days, one tax of \$200 shall apply for each 250 days or fraction thereof that such offices, branches and agencies were open. R.S.O. 1970, c. 91, s. 8 (1).

Reduction
in certain
cases

(2) Where the head office of a bank is outside Ontario and where it has not more than five offices, branches and agencies in Ontario, the Minister, having regard to the amount of business transacted in Ontario, may reduce the amount of tax imposed by clause *a* of subsection 1, but such tax shall in no case be less than one-tenth of 1 per cent calculated on one-half of the paid-up capital stock. R.S.O. 1970, c. 91, s. 8 (2).

Railways,
mileage tax

139.—(1) Every corporation that operates or uses a railway shall for every fiscal year thereof pay a tax of \$60 per mile for one track, and, where the line consists of two or more tracks, of \$40 per mile for each additional track, operated or used in any municipality in Ontario, and of \$40 per mile

for one track, and, where the line consists of two or more tracks, of \$20 per mile for each additional track, in territory without municipal organization in Ontario, but a corporation that operates or uses a railway that, either by itself or in conjunction with any other railway leased by it or to which it is leased or with which it is amalgamated or together with which it forms one system, does not exceed 150 miles in length from terminal to terminal, whether or not one or both of such terminals are outside Ontario, shall, in lieu of such tax, pay a tax of \$15 per mile for one track in Ontario, and where the line consists of two or more tracks, of \$5 per mile for each additional track in Ontario, and, where the railway or system does not exceed thirty miles in length between such terminals, a tax of \$10 per mile for one track in Ontario and, where the line consists of two or more tracks, of \$5 per mile for each additional track in Ontario. R.S.O. 1970, c. 91, s. 9 (1).

(2) In addition to the tax imposed by subsection 1, every ^{Additional tax} corporation that operates or uses a railway that, either by itself or in conjunction with any other railway leased by it or to which it is leased or with which it is amalgamated or together with which it forms one system, exceeds 150 miles in length from terminal to terminal, whether or not one or both of such terminals are outside Ontario, shall for every fiscal year of the corporation pay a tax of \$25 per mile for one track in Ontario, and, where the line consists of two or more tracks, of \$20 per mile for each additional track in Ontario. R.S.O. 1970, c. 91, s. 9 (2).

(3) Switches, spurs and sidings shall not be included in the ^{Switches, etc., not to be included} measurement of track for the purposes of this section. R.S.O. 1970, c. 91, s. 9 (3).

140. Every corporation that owns, operates or uses a line ^{Telegraph companies, special tax} or a part of a line of telegraph in Ontario for gain, including every corporation that owns, operates or uses a railway, shall for every fiscal year of the corporation pay a tax of 1 per cent upon the total amount of money invested by the corporation in such line or part thereof and the plant and works connected therewith; provided that a corporation that owns and a corporation that operates and uses any such line or part thereof are liable jointly and severally for the payment of such tax, but the total amount payable in respect of such line or part thereof and the works and plant connected therewith shall not exceed the total amount of tax imposed under this section, notwithstanding that the line or part thereof is owned, operated or used by more than one corporation. R.S.O. 1970, c. 91, s. 10.

Express
companies,
special tax

141. Every corporation that carries on the business of an express company over a railway in Ontario, including a corporation that owns, operates or uses a railway, shall for every fiscal year of the corporation pay a tax of \$800 for each 100 miles or fraction thereof up to but not exceeding a tax of \$10,000. R.S.O. 1970, c. 91, s. 11.

Car
companies,
special tax

142. Every corporation, except a corporation that owns, operates or uses a railway, that transacts in Ontario the business of operating, leasing or hiring sleeping or parlour or dining cars run upon or used upon any railway in Ontario, shall, for every fiscal year of the corporation, pay a tax of 1 per cent calculated upon the money invested in such cars in use in Ontario. R.S.O. 1970, c. 91, s. 12.

Insurance
companies

143.—(1) Every insurance corporation shall pay a tax of 2 per cent calculated on the gross premiums that become payable to the corporation or its agent or agents during the fiscal year in respect of business transacted in Ontario, other than premiums in respect of re-insurance ceded to the corporation by other insurance corporations and considerations for annuities, after deducting from such premiums,

(a) cash value of dividends credited to policyholders;

(b) premiums returned. R.S.O. 1970, c. 91, s. 13 (1).

Idem

R.S.O. 1970,
c. 224

(2) In addition to the tax payable under subsection 1, every corporation transacting business as an insurer for property insurance within the meaning of *The Insurance Act* and the regulations made thereunder shall pay a tax of one-half of 1 per cent calculated on the gross premiums that become payable to the corporation or its agent or agents during the fiscal year in respect of such business transacted in Ontario other than premiums in respect of re-insurance ceded to the corporation by other insurers after deducting from such premiums,

(a) cash value of dividends credited to policyholders;

(b) premiums returned. *New.*

Premiums
in respect of
business
transacted
in Ontario

(3) In determining the amount of taxes payable under subsections 1 and 2,

(a) every life insurance premium that becomes payable at the time the person insured is a resident of Ontario; and

(b) every other premium that by the terms of the policy or renewal thereof becomes payable in respect

of insurance of a person resident or property situate in Ontario at the time such premium becomes payable whether or not,

- (i) such premium is earned wholly or partly in Ontario,
- (ii) the business in respect of the policy is transacted wholly or partly in Ontario, or
- (iii) the payment of such premium is made wholly or partly in Ontario,

shall be deemed to be a premium payable in respect of business transacted in Ontario. R.S.O. 1970, c. 91, s. 13 (2).

(4) The tax imposed by subsection 1 is not payable in respect of premiums payable under a contract of marine insurance or by, Exemptions

- (a) mutual insurance corporations insuring agricultural and other non-hazardous risks on the premium note plan, the sole business of which is carried on in Ontario;
- (b) fraternal societies and mutual benefit societies as defined in *The Insurance Act*; or R.S.O. 1970,
c. 224
- (c) pension fund and employees' mutual benefit societies incorporated under or subject to *The Corporations Act*. R.S.O. 1970,
c. 89 R.S.O. 1970, c. 91, s. 13 (3).

(5) In this section, "marine insurance" means insurance against marine losses, that is to say, the losses incident to marine adventure, and may by the express terms of a contract or by usage of trade extend so as to protect the insured against losses on inland waters or by land or air which are incidental to any sea voyage. Marine
insurance R.S.O. 1970, c. 91, s. 13 (4).

(6) Where it is established to the satisfaction of the Lieutenant Governor in Council that any jurisdiction discriminates unfairly by imposing taxes, fees and other monetary obligations on any insurance corporation or any particular class of insurance corporations organized under the laws of Canada or of Ontario and having their principal offices in Ontario that in the aggregate are in excess of comparable taxes, fees and monetary obligations imposed on any similar corporation or class of corporations organized under the laws of such jurisdiction, the Lieutenant Governor in Council may direct that any corporation or any class of corporations Unfair dis-
crimination

organized under the laws of such jurisdiction and that transacts business in Ontario shall pay, in addition to the tax otherwise imposed by this section, a tax not exceeding the equivalent of such excess, and such additional tax is recoverable in the same manner as any other tax imposed by this Act. R.S.O. 1970, c. 91, s. 13 (5).

Fiscal year

(7) For the purposes of this Act, the fiscal year of every insurance corporation shall be deemed to end on the 31st day of December. R.S.O. 1970, c. 91, s. 13 (6).

Idem

144. Where a corporation has a fiscal year of less than 365 days the tax otherwise payable by it under this Part shall be in the proportion thereof that the number of days of such fiscal year bears to 365, except that this section does not apply to any corporation to which the provisions of section 143 applies. R.S.O. 1970, c. 91, s. 7.

PART V

RETURNS, PAYMENTS, ASSESSMENTS AND APPEALS

DIVISION A—RETURNS


Annual
return

145.—(1) Every corporation on which a tax is imposed by this Act shall, on or before the last day of the month that ends six months following the close of its fiscal year, without notice or demand, and every corporation on which a tax is or is not imposed by this Act shall, upon receipt of a notice or demand in writing from the Minister or from any officer of the Ministry of Revenue authorized by the Minister to make such demand, deliver to the Minister such return as is required for the purpose of carrying out the provisions of this Act. R.S.O. 1970, c. 91, s. 73 (1).

Verification
of returns

(2) The return shall contain an estimate of the respective taxes payable and shall be verified by a certificate certifying that the financial statements included in the return or attached thereto are in agreement with the books of the corporation, and such certificate shall be signed by the president or some other officer having personal knowledge of the affairs of the corporation and, in the case of an extra-provincial corporation, by the manager or chief agent of the corporation in Ontario or by such other person or persons connected with the corporation as the Minister requires. R.S.O. 1970, c. 91, s. 73 (2).

Penalty
for default

 **146.**—(1) Every corporation that fails to deliver a return as and when required by subsection 1 of section 145 shall pay a penalty of,

- (a) an amount equal to 5 per cent of the tax that was unpaid when the return was required to be delivered, if the tax payable by the corporation for the fiscal year that was unpaid at that time was less than \$10,000; and
- (b) \$500, if at the time the return was required to be delivered tax payable by the corporation equal to \$10,000 or more was unpaid.

(2) Every corporation that fails to complete the information required on the return to be delivered under subsection 1 of section 145 is liable to a penalty of 1 per cent of the taxes payable by it under this Act, but such penalty shall not in any case be less than \$20 or more than \$100. R.S.O. 1970, c. 91, s. 74 (2).

(3) Every person who has,

- (a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer delivered or made as required by or under this Act or the regulations;
- (b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of a corporation;
- (c) made, or assented to or acquiesced in the making of, false or deceptive entries, or omitted, or assented to or acquiesced in the omission, to enter a material particular, in records or books of account of a corporation;
- (d) wilfully in any manner evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act; or
- (e) conspired with any person to commit an offence described by clauses *a* to *d*,

is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on summary conviction to a fine of not less than \$25 and not more than \$10,000 plus, in an appropriate case, an amount of not more than double the amount of the tax that should have been shown to be payable or that was sought to be evaded, or to imprisonment for a term of not more than two years, or to both fine and imprisonment. R.S.O. 1970, c. 91, s. 74 (3).

Statements
or omissions
in return

(4) Where a person, acting or purporting to act on behalf of a corporation, knowingly or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act has made, or has participated in, assented to or acquiesced in the making of, a statement or omission in a return, certificate, statement or answer filed or made as required by or under this Act or the regulations, as a result of which the tax that would have been payable by the corporation for a fiscal year, if the tax had been assessed on the basis of the information provided in the return, certificate, statement or answer, is less than the tax payable by the corporation for the fiscal year, the corporation is liable to a penalty of 25 per cent of the amount by which the tax that would so have been payable is less than the tax payable by the corporation for the fiscal year. R.S.O. 1970, c. 91, s. 74 (4).

Extended
time for
making
returns

147. The Minister may enlarge the time for making any return before or after the time for making it. R.S.O. 1970, c. 91, s. 75.

DIVISION B—PAYMENTS

Taxes,
when to
accrue

148.—(1) The taxes imposed by this Act shall be deemed to accrue proportionately as the days of each fiscal year for which such taxes are imposed pass. R.S.O. 1970, c. 91, s. 76 (1).

Dates of
payment

(2) Every corporation on which a tax is imposed by this Act shall pay to the Treasurer of Ontario,

- (a) on or before the fifteenth day of each of the fifth, eighth and eleventh months of the fiscal year in respect of which the tax is payable and on or before the fifteenth day of the second month of the fiscal year following that in respect of which the tax is payable, an instalment equal to one-quarter of the tax payable as estimated by it at the rates for the fiscal year on,
 - (i) its estimated taxable income and other subject of tax for the fiscal year, or
 - (ii) its taxable income and other subject of tax for the immediately preceding fiscal year; and
- (b) on or before the last day on which a return is required to be delivered under subsection 1 of section 145, the balance, if any, of the tax payable as estimated by it on the return for the fiscal year. R.S.O. 1970, c. 91, s. 76 (2).

(3) Notwithstanding subsection 2, every corporation on which a tax is imposed by this Act, the fiscal year of which commenced after the 15th day of March, 1969, shall pay to the Treasurer of Ontario, ^{Dates of payment}

(a) on or before the fifteenth day of each of the third, fifth, seventh, ninth and eleventh months of the fiscal year in respect of which the tax is payable and on or before the fifteenth day of the first month of the fiscal year following that in respect of which the tax is payable, an instalment equal to one-sixth of the tax payable as estimated by it at the rates for the fiscal year on,

(i) its estimated taxable income and other subject of tax for the fiscal year, or

(ii) its taxable income and other subject of tax for the immediately preceding fiscal year; and

(b) on or before the last day on which a return is required to be delivered under subsection 1 of section 145, the balance, if any, of the tax payable as estimated by it on the return for the fiscal year. R.S.O. 1970, c. 91, s. 76 (3).

(4) Notwithstanding subsections 2 and 3 and subject to subsection 5 of section 149, where for the purposes of this section any corporation estimates the amount of tax payable for a fiscal year to be less than \$300, the corporation may, instead of paying the instalments required by subsection 2 or 3, pay such tax on or before the fifteenth day of the first month of the fiscal year following that in respect of which the tax is payable. R.S.O. 1970, c. 91, s. 76 (4). ^{Special cases}

149.—(1) Where the amount paid on account of tax payable by a corporation for a fiscal year before the expiration of the time allowed for delivering of the return of the corporation under section 145 is less than the amount of tax payable for the fiscal year, the corporation liable to pay the tax shall pay interest on the difference between those two amounts from the expiration of the time for delivering the return to the date of payment at such rate as is prescribed by the regulations. R.S.O. 1970, c. 91, s. 77 (1). ^{Interest on unpaid tax}

(2) Where a corporation is required by subsection 2, 3 or 4 of section 148 to pay all or a part or instalment of tax and it has failed to pay all or any part thereof as required, the corporation, in addition to the interest payable under subsection 1, shall pay interest, at such rate as is prescribed ^{Idem}

by the regulations, on the amount it failed to pay from the day on or before which it was required to make the payment to the day of payment or the beginning of the period in respect of which it becomes liable to pay interest thereon under subsection 1, whichever is earlier. R.S.O. 1970, c. 91, s. 77 (2).

Idem

(3) Where the Minister has reassessed the tax payable for a fiscal year under subsection 4 of section 150 and the tax payable is greater than the tax previously assessed for that fiscal year, the interest payable under subsection 2 and the penalty under subsection 1 of section 146 shall be assessed in accordance with the provisions of subsection 1 of section 150 provided,

- (a) that the provisions of this subsection shall not apply where subsection 3 or 4 of section 146 apply; and
- (b) the provisions of this subsection shall apply only with respect to instalments of tax due and payable before the thirtieth day following the date of such reassessment. *New.*

Effect of
carry-back
of loss

(4) Where a corporation is entitled to deduct under subsection 1 of section 99 in computing its taxable income for a taxation year an amount in respect of a loss sustained in the fiscal year immediately following the taxation year, hereinafter in this subsection referred to as "the loss year", for the purpose of computing interest and penalty interest under this section on tax or a part or instalment of tax for the taxation year for any portion of the period in respect of which the interest is payable on or before the last day of the loss year, the tax payable for the taxation year shall be deemed to be the amount that it would have been if the corporation were not entitled to deduct an amount under subsection 1 of section 99 in respect of that loss. R.S.O. 1970, c. 91, s. 77 (3).

Interest
on unpaid
tax

(5) For the purposes of calculating interest under subsection 2, where a corporation is required to pay a part or instalment of tax for a fiscal year as estimated by it on its taxable income and other subject of tax for a preceding fiscal year or on its estimated taxable income and other subject of tax for the fiscal year, it shall be deemed to have been liable to pay a part or instalment computed by reference to the taxable income and other subject of tax for,

- (a) the preceding fiscal year; or
- (b) the fiscal year,

whichever is the lesser. R.S.O. 1970, c. 91, s. 77 (4).

DIVISION C—ASSESSMENTS

150.—(1) The Minister shall with all due despatch examine each return delivered under section 145 and assess the tax for the fiscal year and the interest and penalties if any payable. Assessment of returns
R.S.O. 1970, c. 91, s. 78 (1).

(2) After examination of a return, the Minister shall send, Notice of assessment by mail or by registered mail or deliver by personal service a notice of assessment to the corporation that delivered the return. R.S.O. 1970, c. 91, s. 78 (2).

(3) Liability for tax imposed by this Act is not affected by an incorrect or incomplete assessment or by the fact that no Continuation of liability for tax assessment has been made. R.S.O. 1970, c. 91, s. 78 (3).

(4) The Minister may at any time assess tax, interest or penalties, or notify in writing any person by whom a return of income or other subject of tax for a fiscal year has been filed that no tax is payable for the fiscal year, and may, Reassessment

(a) at any time, if the corporation or person filing the return,

(i) has made any misrepresentation or committed any fraud in filing the return or supplying any information under this Act, or

(ii) has failed to file financial statements with the return required to be filed under section 145, or

(iii) has been negligent in supplying any information under this Act, or

(iv) has filed with the Minister a waiver in a prescribed form within six years from the day of mailing of a notice of an original assessment or of a notification that no tax is payable for a fiscal year, or

(v) has claimed a deduction under clause *u* of subsection 1 of section 24; and

(b) within six years from the day referred to in sub-clause iv of clause *a*, in any other case,

reassess or make additional assessments or assess tax, interest or penalties, as the circumstances require. R.S.O. 1970, c. 91, s. 78 (4).

Idem

(5) Where a corporation has delivered the return required by section 145 for a fiscal year and, within one year from the day on or before it was required by section 145 to deliver a return for that fiscal year, has filed an amended return for the fiscal year claiming a deduction from income under subsection 1 of section 99 in respect of a loss sustained in the fiscal year immediately following that fiscal year, the Minister shall reassess the tax payable by the corporation for that fiscal year. R.S.O. 1970, c. 91, s. 78 (5).

Minister
not bound
by returns

(6) The Minister is not bound by a return or information delivered by or on behalf of a corporation and may, notwithstanding a return or information so delivered or if no return or information has been delivered, assess the tax payable under this Act. R.S.O. 1970, c. 91, s. 78 (6).

Assessment
valid and
binding

(7) An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto. R.S.O. 1970, c. 91, s. 78 (7).

Payment of
assessment

151.—(1) Every corporation shall within thirty days from the day of mailing of the notice of assessment pay any part of the assessed tax, interest and penalties then remaining unpaid, whether or not an objection to or appeal from the assessment is outstanding. R.S.O. 1970, c. 91, s. 79 (1).

Idem

(2) Where in the opinion of the Minister a corporation is attempting to avoid payment of a tax imposed by this Act or where the Minister has assessed the tax payable under this Act pursuant to subsection 6 of section 150, he may, notwithstanding subsection 2 of section 150, serve the notice of assessment upon the corporation or the president, manager, secretary or any director, agent or representative thereof and direct that all taxes, penalties and interest as set out therein shall be paid forthwith. R.S.O. 1970, c. 91, s. 79 (2).

DIVISION D—REFUNDS OF OVERPAYMENTS

Refunds

152.—(1) If the return required to be delivered by a corporation under section 145 for a fiscal year has been delivered within four years from the end of that fiscal year, the Minister,

- (a) may, upon mailing the notice of assessment for the fiscal year, refund without application therefor any overpayment made on account of the tax payable for the fiscal year; and

- (b) shall make such a refund after mailing the notice of assessment if application therefor has been made in writing by the corporation within four years from the day on which the overpayment was made or the day on which the notice of assessment was mailed. R.S.O. 1970, c. 91, s. 80 (1).

(2) Instead of making a refund that might otherwise be made under this section, the Minister may, where the corporation is liable or about to become liable to make another payment under this Act, apply the amount of the overpayment to that other liability and notify the corporation of such action. R.S.O. 1970, c. 91, s. 80 (2).

(3) Where an amount in respect of an overpayment is refunded or applied under this section on other liability, interest at such rate as is prescribed by the regulations shall be paid or applied thereon for the period commencing with the latest of,

- (a) the day on which the overpayment arose;
- (b) the day on or before which the return of the corporation in respect of which the overpayment arose was required by section 145 to be delivered; or
- (c) the day on which the return of the corporation in respect of which the overpayment arose was delivered,

and ending with the day of refunding or application aforesaid, unless the amount of the interest so calculated is less than \$1, in which event no interest shall be paid or applied under this subsection. R.S.O. 1970, c. 91, s. 80 (3).

(4) Where by a decision of the Minister under section 154 or by a decision of a court it is finally determined that the tax payable under this Act by a corporation for a fiscal year is less than the amount assessed by the assessment under section 150 to which objection was made or from which the appeal was taken and the decision makes it appear that there has been an overpayment for the fiscal year, the interest payable under subsection 3 on that overpayment shall be computed at such rate as is prescribed by the regulations. R.S.O. 1970, c. 91, s. 80 (4).

(5) Where an amount has been paid with respect to the provisions of section 167 and the tax payable under this Act for the fiscal year as finally determined is less than the payment,

the interest payable on that overpayment shall, notwithstanding subsection 3, be computed at such rate as is prescribed for the purpose of subsection 4 as though the day on which the overpayment arose is the day upon which the payment was made. *New.*

Interpre-
tation

(6) Except as provided in subsection 5, for the purpose of this section, "overpayment" means the aggregate of all amounts paid on account of tax payable for a fiscal year minus all amounts payable under this Act or an amount so paid where no amount is so payable. R.S.O. 1970, c. 91, s. 80 (5).

Effect of
carry-back
of loss

(7) Where a corporation is entitled to deduct under subsection 1 of section 99 in computing its taxable income for a taxation year an amount in respect of a loss sustained in the fiscal year immediately following the taxation year, hereinafter in this subsection referred to as "the loss year", and the amount of the tax payable for the taxation year is relevant in determining an overpayment for the purpose of computing interest under subsection 3 for any portion of a period ending on or before the last day of the loss year, the tax payable for the taxation year shall be deemed to be the amount that it would have been if the corporation were not entitled to deduct an amount under subsection 1 of section 99 in respect of that loss. R.S.O. 1970, c. 91, s. 80 (6).

Credit
interest on
overpaid
instalments

153.—(1) Where instalments of tax as required by subsection 3 of section 148 are overpaid at any time prior to the day the return of the corporation in respect of which the overpaid instalments occurred was required by section 145 to be delivered or the day on which a refund was made upon assessment where such assessment is made before the day the return was due to be filed, whichever is earlier, interest at such rate as is prescribed for the purpose of subsection 3 of section 152 shall be allowed on the overpayment to the extent that interest has been otherwise assessed under subsection 2 of section 149 except that under no circumstances shall the credit interest so allowed exceed the interest otherwise assessed under that section.

Application

(2) Subsection 1 does not apply with respect to any amount to which subsection 5 of section 152 applies. *New.*

DIVISION E—OBJECTIONS TO ASSESSMENT

Notice of
objection

154.—(1) A corporation that objects to an assessment under section 150 may within ninety days from the day of mailing of the notice of assessment serve on the Minister

a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts. R.S.O. 1970, c. 91, s. 81 (1).

(2) A notice of objection under this section shall be served^{Service} by being sent by registered mail addressed to the Minister. R.S.O. 1970, c. 91, s. 81 (2).

(3) The Minister may accept a notice of objection under this^{Idem} section notwithstanding that it was not served in duplicate or in the manner required by subsection 2. R.S.O. 1970, c. 91, s. 81 (3).

(4) Upon receipt of the notice of objection, the Minister^{Reconsideration} shall with all due despatch reconsider the assessment and vacate, confirm or vary the assessment or reassess and he shall thereupon notify the corporation of his action by registered letter. R.S.O. 1970, c. 91, s. 81 (4).

DIVISION F—APPEALS

155.—(1) Where a corporation has served notice of objection^{Appeal} to an assessment under section 154, the corporation may appeal to the Supreme Court to have the assessment vacated or varied after the Minister has confirmed or reassessed, but no appeal under this section may be instituted after the expiration of ninety days from the day notice has been mailed to the corporation under section 154 that the Minister has confirmed the assessment or reassessed. R.S.O. 1970, c. 91, s. 82 (1).

(2) An appeal to the Supreme Court shall be instituted^{Appeals, how instituted} by serving on the Minister a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the corporation appealing has its head office or other permanent establishment. R.S.O. 1970, c. 91, s. 82 (2).

(3) A notice of appeal shall be served upon the Minister^{Notice of appeal} by being sent by registered mail addressed to the Minister. R.S.O. 1970, c. 91, s. 82 (3).

(4) The corporation appealing shall set out in the notice^{Statement of allegations} of appeal a statement of the allegations of fact, the statutory provisions and reasons that it intends to submit in supporting its appeal. R.S.O. 1970, c. 91, s. 82 (4).

Security
for costs

(5) An appeal by a corporation and all proceedings thereunder are, upon the expiration of sixty days from the day the appeal is instituted, null and void unless security for the costs of the appeal has been, within the said period, paid into court in the sum of \$400 or such other sum as the Minister requires and, upon an appeal becoming null and void by virtue of this subsection, no other appeal or proceedings shall be instituted in respect of the same decision. R.S.O. 1970, c. 91, s. 82 (5).

Idem

(6) When security has been given under subsection 5, notice thereof shall be served on the Minister specifying the fact and the purpose of the payment. R.S.O. 1970, c. 91, s. 82 (6).

Reply to
notice of
appeal

156.—(1) The Minister shall with all due despatch serve on the corporation appealing and file in the court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as the Minister intends to rely on. R.S.O. 1970, c. 91, s. 83 (1).

Amendment
of notice of
appeal

(2) The court or a judge may in its or his discretion strike out a notice of appeal or any part thereof for failure to comply with subsection 4 of section 155 and may permit an amendment to be made to a notice of appeal or a new notice of appeal to be substituted for the one struck out. R.S.O. 1970, c. 91, s. 83 (2).

Amendment
to reply

(3) The court or a judge may in its or his discretion,

(a) strike out any part of a reply for failure to comply with subsection 1 or permit the amendment of a reply; or

(b) strike out a reply for failure to comply with this section and order a new reply to be filed within a time to be fixed by the order. R.S.O. 1970, c. 91, s. 83 (3).

Failure to
comply

(4) Where a notice of appeal is struck out for failure to comply with subsection 4 of section 155 and a new notice of appeal is not filed as and when permitted by the court or a judge, the court or a judge thereof may, in its or his discretion, dispose of the appeal by dismissing it. R.S.O. 1970, c. 91, s. 83 (4).

Idem

(5) Where a reply is not filed as required by this section or is struck out under this section and a new reply is not filed as ordered by the court or a judge within the time ordered, the

court may dispose of the appeal *ex parte* or after a hearing on the basis that the allegations of fact contained in the notice of appeal are true. R.S.O. 1970, c. 91, s. 83 (5).

157.—(1) Upon the filing of the material referred to in sections 155 and 156 with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the corporation appealing has its head office or permanent establishment, the matter shall be deemed to be an action in the court and, unless the court otherwise orders, ready for hearing. R.S.O. 1970, c. 91, s. 84 (1). Matter deemed action

(2) Any fact or statutory provision not set out in the notice of appeal or reply may be pleaded or referred to in such manner and upon such terms as the court directs. R.S.O. 1970, c. 91, s. 84 (2). Facts not set out may be pleaded

(3) The court may dispose of the appeal by, Disposal of appeal

(a) dismissing it;

(b) allowing it; or

(c) allowing it, and,

(i) vacating the assessment,

(ii) varying the assessment,

(iii) restoring the assessment, or

(iv) referring the assessment back to the Minister for reconsideration and reassessment. R.S.O. 1970, c. 91, s. 84 (3).

(4) The court may in delivering judgment disposing of an appeal order payment or refund of tax, interest, penalties or costs by the corporation or the Minister, as the case may be. R.S.O. 1970, c. 91, s. 84 (4). Court may order payment of tax, etc.

158. Proceedings under this Division shall be held *in camera* upon request made to the court by the corporation appealing or by the Minister. R.S.O. 1970, c. 91, s. 85. Proceedings in camera

159. The practice and procedure of the Supreme Court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter deemed to be an action under section 157 and every judgment and order given Supreme Court practice to govern

or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court. R.S.O. 1970, c. 91, s. 86.

Irregularities

160. An assessment shall not be vacated or varied on appeal by reason only of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision of this Act. R.S.O. 1970, c. 91, s. 87.

PART VI

ADMINISTRATION AND ENFORCEMENT

Investiga-
tions

161.—(1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or anything is done in connection with any business or any books or records are or should be kept pursuant to this Act, and,

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or the amount of tax payable under this Act;
- (b) examine property described by an inventory or any property, process or matter an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax payable under this Act;
- (c) require the president, manager, secretary or any director, agent or representative of the corporation liable to pay or considered possibly liable to pay tax under this Act and any other person on the premises of such corporation to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration and, for that purpose, require such person to attend at the premises or place with him; and

- (d) if during the course of an audit or examination it appears to him that there has been a violation of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings. R.S.O. 1970, c. 91, s. 88 (1).

(2) The Minister may, for any purpose relating to the adminis-^{Idem}tration or enforcement of this Act, by registered letter or by a demand served personally, require from any corporation or from the president, manager, secretary, or any director, agent or representative thereof,

- (a) any information or additional information or a return as required by section 145 or a supplementary return; or
- (b) production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated therein. R.S.O. 1970, c. 91, s. 88 (2).

(3) The Minister may, for any purpose related to the ad-^{Idem}ministration or enforcement of this Act, by registered letter or by a demand served personally, require from any person, partnership, syndicate, trust or corporation holding or paying or liable to pay any portion of the income of the corporation, or from any partner, agent or official of any such person, partnership, syndicate, trust or corporation, production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents, within such reasonable time as is stipulated therein. R.S.O. 1970, c. 91, s. 88 (3).

(4) The Minister may, for any purpose related to the ad-^{Idem}ministration or enforcement of this Act, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon *ex parte* application, authorize in writing any officer of the Ministry of Revenue, together with such members of the provincial police or other peace officers as he calls on to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place for documents, books, records, papers or things that may afford evidence as to the violation of any provision of this Act or the regulations and to seize and take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings. R.S.O. 1970, c. 91, s. 88 (4).

Idem

(5) The Minister may, by registered letter or by a demand served personally, require the production, under oath or otherwise, by any person, partnership, syndicate, trust or corporation, or by his or its agent or officer, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation or of his or its agent or officer, for the purpose of determining what tax, if any, is payable under this Act by any corporation and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand. R.S.O. 1970, c. 91, s. 88 (5).

Idem

(6) The Minister may, for any purpose related to the administration or enforcement of this Act, authorize any person, whether or not he is an officer of the Ministry of Revenue, to make such inquiry as he deems necessary with reference to anything relating to the administration or enforcement of this Act. R.S.O. 1970, c. 91, s. 88 (6), *amended*.

Copies

(7) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced or any officer of the Ministry of Revenue may make, or cause to be made, one or more copies thereof and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way. R.S.O. 1970, c. 91, s. 88 (7), *amended*.

Compliance

(8) No person shall hinder or molest or interfere with any person doing anything that he is authorized by this section to do or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by this section to do. R.S.O. 1970, c. 91, s. 88 (8).

Administra-
tion of
oaths

(9) Declarations or affidavits in connection with returns delivered under this Act or statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath, or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee therefor. R.S.O. 1970, c. 91, s. 88 (9).

Powers of
inquiry

1971, c.49

(10) For the purpose of an inquiry authorized under subsection 6, the person authorized to make the inquiry has all the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to the inquiry as if it were an inquiry under that Act. R.S.O. 1970, c. 91, s. 88 (10), *amended*.

162.—(1) Every corporation that is required by this Act to pay taxes shall keep records and books of account, including an annual inventory kept in the same manner as is required for purposes of the *Income Tax Act* (Canada) and the regulations made thereunder at its permanent establishment in Ontario or at such other place as is designated by the Minister, in such form and containing such information as will enable the taxes payable under this Act to be determined. R.S.O. 1970 c. 91, s. 89 (1), *amended*.

(2) Where a corporation has failed to keep adequate records and books of account for the purpose of this Act, the Minister may require the corporation to keep such records and books of account as he specifies and the corporation shall thereafter keep records and books of account as so required. R.S.O. 1970, c. 91, s. 89 (2).

(3) Every corporation required by this section to keep records and books of account shall, until written permission for their disposal is obtained from the Minister, retain every such record or book of account and every account or voucher necessary to verify the information in any such records or books of account. R.S.O. 1970, c. 91, s. 89 (3).

163.—(1) Every corporation that has failed to deliver a return as and when required by this Act or the regulations is guilty of an offence and, in addition to any penalty otherwise provided, on summary conviction is liable to a fine of not less than \$25 for each day of default. R.S.O. 1970, c. 91, s. 90 (1).

(2) Every person who has failed to comply with or contravened section 161 or 162 is guilty of an offence and, in addition to any penalty otherwise provided, on summary conviction is liable to a fine of \$25 for each day during which the default continues. R.S.O. 1970, c. 91, s. 90 (2).

164. Where a corporation is guilty of an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in, or participated in, the commission of the offence is a party to and guilty of the offence and on summary conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted. R.S.O. 1970, c. 91, s. 91.

165. An information in respect of an offence against this Act shall be laid within six years of the time when the matter of the information arose. R.S.O. 1970, c. 91, s. 92.

Communica-
tion of
information

166.—(1) No person employed in the service of Her Majesty shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act or allow any such person to inspect or have access to any written statement furnished under this Act. R.S.O. 1970, c. 91, s. 93 (1).

Offence
and
penalty

(2) Every person who contravenes any provision of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1970, c. 91, s. 93 (2).

Exception

(3) Notwithstanding subsection 1, the Minister may, for the purpose of aiding in an investigation for taxation purposes under this or any other Act, enter into an agreement with the government of Canada or of any province under which officers of such government will be allowed access to information obtained or any written statement furnished under this Act and officers of the Government of Ontario will be allowed access to information obtained or any written statement furnished under any Act of such government. R.S.O. 1970, c. 91, s. 93 (3).

Collection

Priority
of tax

R.S.C. 1970,
c. B-4

167.—(1) All taxes, interest, penalties, costs and other amounts imposed under this Act are debts due to Her Majesty and, subject to the *Bankruptcy Act* (Canada), are a first lien and charge upon property in Ontario (except prescribed property) of the corporation liable to pay such taxes, interest, penalties, costs and other amounts. R.S.O. 1970, c. 91, s. 94 (1), *amended*.

Tax and
penalty
to be
lien on
property

(2) All taxes, interest, penalties, costs and other amounts imposed under this Act upon a corporation that owns, operates or uses a railway are a special lien on any property, real or personal, in which the corporation has any interest, legal or equitable (other than as lessee or under any agreement for running rights or operating rights) in priority to every claim, privilege, lien or encumbrance, whenever created, of every person, and the lien and its priority are not lost or impaired by any neglect, omission or error of any minister, officer, servant or agent of the Crown, or by want of registration. R.S.O. 1970, c. 91, s. 94 (2).

Garnishment

168.—(1) When the Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a corporation liable to make a payment under this Act, he may, by registered letter or by a letter served personally, require him to pay the moneys otherwise payable

to that corporation in whole or in part to the Treasurer of Ontario on account of the liability under this Act. R.S.O. 1970, c. 91, s. 95 (1).

(2) The receipt of the Treasurer of Ontario for moneys paid ^{Idem} as required under this section is a good and sufficient discharge of the original liability to the extent of the payment. R.S.O. 1970, c. 91, s. 95 (2).

(3) Every person who has discharged any liability to a ^{Liability of debtor} corporation liable to make a payment under this Act without complying with a requirement under this section is liable to pay to Her Majesty in right of Ontario an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer of Ontario, whichever is the lesser. R.S.O. 1970, c. 91, s. 95 (3).

(4) Where a person who is or is about to become indebted ^{Service of garnishee} or liable to make a payment to a corporation liable to make a payment under this Act carries on business under a name or style other than his own name, the registered or other letter under subsection 1 may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee. R.S.O. 1970, c. 91, s. 95 (4).

(5) Where the persons who are or are about to become ^{Idem} indebted or liable to make a payment to a corporation liable to make a payment under this Act carry on business in partnership, the registered or other letter under subsection 1 may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership. R.S.O. 1970, c. 91, s. 95 (5).

169.—(1) Upon default of payment by a corporation of any ^{Recovery of tax, interest and penalties} tax, interest or penalty or any of them imposed upon a corporation by this Act,

- (a) the Minister may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Minister or his name of office and may be continued by his successor in office as if no change had occurred, and shall be tried without a jury;

- (b) the Minister may issue a warrant, directed to the sheriff of any county or district in which any property of the corporation is located or situate, for the amount of the tax, interest and penalty or any of them owing by the corporation, together with interest thereon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court. R.S.O. 1970, c. 91, s. 96 (1).

Compliance
of Minister
to be proved
by affidavit

(2) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the Minister with this Part as well as the failure of any person, partnership, syndicate, trust or corporation to comply with the requirements of this Part shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proven in any court of law by affidavit of the Minister or of any officer of the Ministry of Revenue. R.S.O. 1970, c. 91, s. 96 (2), *amended*.

Remedies
for recovery
of tax and
penalty

170. The use of any of the remedies provided by sections 168 and 169 does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery or enforcement of the payment of any tax, interest and penalty or any of them imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or otherwise. R.S.O. 1970, c. 91, s. 97.

Notice to be
given
Minister of
sale of
company's
capital assets

171.—(1) Where a corporation has failed to pay taxes, interest and penalties or any of them imposed by this Act for a period of more than three years from the date of mailing of the notice of assessment provided by subsection 2 of section 150, no person shall sell any capital assets of the corporation unless he has given written notice by registered letter to the Minister not less than ten days before the date of the sale. R.S.O. 1970, c. 91, s. 98 (1).

Penalty

(2) Every person who contravenes the provisions of subsection 1 is liable to a penalty of not less than an amount equal to the amount of such taxes, interest and penalties in default and such penalty is recoverable by action in any court in which a debt or money demand of a similar amount may be collected. R.S.O. 1970, c. 91, s. 98 (2).

172. If any doubt or dispute arises as to the liability of a corporation to pay a tax or any portion of a tax demanded under the authority of this Act, or if owing to special circumstances it is deemed inequitable to demand payment of the whole amount imposed by this Act, the Minister may accept such amount as he deems proper. R.S.O. 1970, c. 91, s. 99.

Com-
promising
disputes as to
liability
for taxes

173. Every person who, and every corporation that, contravenes or fails to comply with any of the provisions of this Act or the regulations for which no other fine is provided is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500. R.S.O. 1970, c. 91, s. 100.

General
offence

174. The fines imposed for offences under this Act are payable to the Treasurer of Ontario. R.S.O. 1970, c. 91, s. 101, *amended*.

Fines
payable to
Treasurer

175.—(1) The Lieutenant Governor in Council may make regulations,

Regulations

- (a) authorizing or requiring the Deputy Minister of Revenue or any officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;
- (b) providing for the issuance of certificates as to the amount of taxes, interest and penalties or any of them owing by any corporation under this Act and prescribing the fee payable therefor;
- (c) prescribing anything that by this Act is to be prescribed or is to be determined or regulated by the regulations;
- (d) prescribing amendments to the provisions of Part II that relate to the computation of income and taxable income and to the provisions of Parts VII and VIII, such amendments to remain effective only if enacted by the Legislature at the first regular session after such amendments have been prescribed;
- (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act;
- (f) prescribing rates of interest for the purposes of Part V. R.S.O. 1970, c. 91, s. 102 (1).

(2) A regulation is, if it so provides, effective with reference to a period before it was filed. R.S.O. 1970, c. 91, s. 102 (2).

Idem

PART VII

TRANSITIONAL PROVISIONS

Application
rules

176.—(1) For the purposes of this Act, the *Income Tax Application Rules, 1971* (Canada) shall, where applicable, be deemed to apply *mutatis mutandis* to fiscal years ended in 1972 and subsequent fiscal years.

Idem

(2) In this Act where reference is made to *The Corporations Tax Application Rules, 1972*, such reference shall mean the provisions made applicable by subsection 1.

Effect of
R.S.O. 1970,
c. 91

(3) In this Act where reference is made to *The Corporations Tax Act* such reference shall mean the provisions of *The Corporations Tax Act*, R.S.O. 1970, c. 91, as amended.

PART VIII

MISCELLANEOUS

Application
of R.S.O. 1970,
c. 91 as
amended and
this Act

177.—(1) *The Corporations Tax Act*, being chapter 91 of the Revised Statutes of Ontario, 1970, applies to corporations in respect of all fiscal years ending before or during the year 1971 and this Act applies thereafter, provided that the provisions of this Act relating to the collection of taxes apply to the collection of taxes under *The Corporations Tax Act* and that the priority of tax under subsection 1 of section 94 of *The Corporations Tax Act* does not apply to property prescribed for the purposes of subsection 1 of section 167 of this Act.

R.S.O. 1970,
c. 91 as
amended,
repealed

(2) Subject to subsection 1, *The Corporations Tax Act*, *The Corporations Tax Amendment Act, 1971*, *The Corporations Tax Amendment Act, 1971 (No. 2)* and *The Corporations Tax Amendment Act, 1971 (No. 3)* are repealed.

Commence-
ment

178. This Act comes into force on the day it receives Royal Assent.

Short title

179. This Act may be cited as *The Corporations Tax Act, 1972*.

The Corporations Tax Act, 1972

1st Reading

June 29th, 1972

2nd Reading

December 12th, 1972

3rd Reading

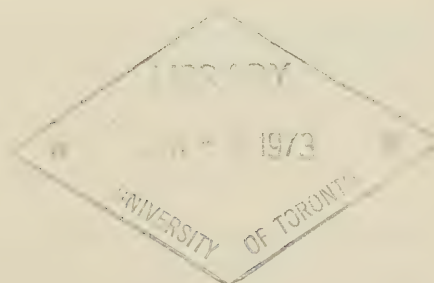
THE HON. A. GROSSMAN
Minister of Revenue

(Reprinted as amended by the
Administration of Justice Committee)

2ND SESSION, 29TH LEGISLATURE, ONTARIO
21 ELIZABETH II, 1972

The Corporations Tax Act, 1972

THE HON. A. GROSSMAN
Minister of Revenue



TORONTO

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The Corporations Tax Act, 1972

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

PART I

INTERPRETATION

1.—(1) In this Act,

Interpre-
tation

1. "adjusted cost base" has the meaning given to that expression by section 56;
2. "allowable capital loss" has the meaning given to that expression by section 40;
3. "amount" means money, rights or things expressed in terms of the amount of money or the value in terms of money of the right or thing, except that the "amount" of any stock dividend paid by a corporation is the amount of the increase in the paid-up capital of the corporation by virtue of the payment of the dividend;
4. "annuity" includes an amount payable on a periodic basis whether payable at intervals longer or shorter than a year and whether payable under a contract, will or trust or otherwise;
5. "assessment" includes a reassessment;
6. "bank" means a corporation or joint stock company wherever incorporated for the purpose of doing a banking business or the business of a savings bank that transacts such business in Ontario, whether the head office is situate in Ontario or elsewhere;
7. "business" includes a profession, calling, trade, manufacture or undertaking of any kind whatsoever and

includes an adventure or concern in the nature of trade but does not include an office or employment;

1970-71,
c. 63 (Can.)

8. "Canadian-controlled private corporation" has the meaning given to that expression by subsection 6 of section 125 of the *Income Tax Act* (Canada);
9. "Canadian corporation" has the meaning given to that expression by subsection 1 of section 83;
10. "capital dividend" has the meaning given to that expression by subsection 2 of section 77;
11. "capital gain" for a fiscal year from the disposition of any property has the meaning given to that expression by section 41;
12. "capital interest" of a corporation in a trust has the meaning given to that expression by clause *b* of subsection 1 of section 97;
13. "capital loss" for a fiscal year from the disposition of any property has the meaning given to that expression by section 41;
14. "capital property" has the meaning given to that expression by section 56;
15. "common share" is a share the holder of which is not precluded upon the reduction or redemption of the capital stock from participating in the assets of the corporation beyond the amount paid up thereon plus a fixed premium and a defined rate of dividend;
16. "corporation" means any corporation however or wherever incorporated and where any corporation or the whole or any part of the property thereof is placed in the hands or under the control of an agent, assignee, trustee, liquidator, receiver or other official, includes such agent, assignee, trustee, liquidator, receiver or other official, but does not include a corporation incorporated without share capital;
17. "cost amount" to a person of any property at any time means, except as expressly otherwise provided in this Act,
 - i. where the property was depreciable property of the corporation of a prescribed class, that

proportion of the undepreciated capital cost to it of property of that class at that time that the capital cost to it of the property is of the capital cost to it of all property of that class,

- ii. where the property was capital property, other than depreciable property, of the corporation, its adjusted cost base to it at that time,
 - iii. where the property was property described in an inventory of the corporation, its value at that time as determined for the purpose of computing its income,
 - iv. where the property was eligible capital property of the corporation in respect of a business, the cumulative eligible capital of the corporation in respect of the business at that time,
 - v. where the property was a debt owing to the corporation, other than a debt the amount of which was deducted under clause *r* of subsection 1 of section 24 in computing the corporation's income for a fiscal year ending before that time, or any other right of the corporation to receive an amount, the amount of the debt or other right that was outstanding at that time, and
 - vi. in any other case, the cost to the corporation of the property as determined for the purpose of computing its income, except to the extent that such cost has been deducted in computing its income from any fiscal year ending before that time;
- 18. "cumulative eligible capital" has the meaning given to that expression by subsection 4 of section 18;
 - 19. "deferred profit sharing plan" has the meaning given to that expression by subsection 1 of section 120;
 - 20. "depreciable property" has the meaning given to that expression by subsection 17 of section 17;
 - 21. "designated surplus" has the meaning given to that expression by Part VII of the *Income Tax Act*^{1970-71, c. 63 (Can.)} (Canada);

22. "dividend" includes a stock dividend, other than a stock dividend that was paid before 1972;
23. "eligible capital expenditure" has the meaning given to that expression by subsection 4 of section 18;
24. "eligible capital property" has the meaning given to that expression by section 56;
25. "employed" means performing the duties of an office or employment;
26. "employee" includes officer;
27. "employees profit sharing plan" has the meaning given to that expression by subsection 1 of section 118;
28. "employer", in relation to an officer, means the person from whom the officer receives his remuneration;
29. "employment" means the position of an individual in the service of some other person, including Her Majesty or a foreign state or sovereign, and "servant" or "employee" means a person holding such a position;
30. "exempt income" means money or property received or acquired by a corporation in such circumstances that it is, by reason of any provision in Part II, not included in computing its income, but for greater certainty does not include a dividend on a share;
31. "farming" includes tillage of the soil, live stock raising or exhibiting, maintaining of horses for racing, raising of poultry, fur farming, dairy farming, fruit growing and the keeping of bees, but does not include an office or employment under a person engaged in the business of farming;
32. "fiscal year" means the period for which the accounts of the business of a corporation are ordinarily made up and accepted for purposes of assessment under this Act and, in the absence of an established practice, the fiscal year is that adopted by a corporation, but no fiscal year may exceed fifty-three weeks and any change in a usual and accepted fiscal year shall be made for the purposes of this Act only with the concurrence of or in accordance with the direction of the Minister;

33. "fishing" includes fishing for or catching shell fish, crustaceans and marine animals but does not include an office or employment under a person engaged in the business of fishing;
34. "gross revenue" means the aggregate of all amounts received in a fiscal year or receivable in the fiscal year, depending on the method regularly followed by the corporation in computing its profit, otherwise than as or on account of capital;
35. "income bond" or "income debenture" means respectively a bond or debenture in respect of which interest or dividends are payable only when the debtor corporation has made a profit before taking into account the interest or dividend obligation on such bond or debenture;
36. "income interest" of a corporation in a trust has the meaning given to that expression by subsection 1 of section 97;
37. "insurance corporation" or "insurer" means a corporation with or without share capital that carries on an insurance business;
38. "*inter vivos* trust" has the meaning given to that expression by subsection 1 of section 97;
39. "inventory" means a description of property the cost or value of which is relevant in computing the income of a corporation from a business for a fiscal year;
40. "jurisdiction" means a province or territory of Canada or a state outside Canada having sovereign power;
41. "life insurance business" includes,
 - i. an annuities business, and
 - ii. the business of issuing contracts all or any part of the issuer's reserves for which vary in amount depending upon the fair market value of a specified group of assets,

carried on by a life insurance corporation or life insurer;

42. "life insurance corporation" or "life insurer" means a corporation that carries on a life insurance business that is not a business described in subparagraph i or ii of paragraph 41 whether or not it also carries on a business described in either of those subparagraphs;
43. "listed personal property" has the meaning given to that expression by section 56;
44. "minerals" do not include petroleum, natural gas or related hydrocarbons, except coal or bituminous sands;
45. "mineral resource" means,
 - i. a base or precious metal deposit,
 - ii. a coal deposit,
 - iii. a bituminous sands deposit, or
 - iv. a mineral deposit in respect of which,
 - (A) the Minister has certified that the principal mineral extracted is an industrial mineral contained in a non-bedded deposit,
 - (B) the principal mineral extracted is syl-vite,
 - (C) the principal mineral extracted is halite that is extracted by underground min-ing and not by operating a brine well,
 - (D) the principal mineral extracted is silica that is extracted from sandstone or quartzite, or
 - (E) the principal mineral extracted is gyp-sum;
46. "Minister" means the Minister of Revenue;
47. "net capital loss" has the meaning given to that expression by subsection 7 of section 99;
48. "non-capital loss" has the meaning given to that expression by subsection 7 of section 99;

49. "non-resident" means not resident in Canada;
50. "non-resident-owned investment corporation" has the meaning given to that expression by subsection 5 of section 110;
51. "paid-up capital deficiency" has the meaning given to that expression by clause *d* of subsection 1 of section 83;
52. "permanent establishment" has the meaning given to that expression by section 7;
53. "personal-use property" has the meaning given to that expression by section 56;
54. "preferred share" means a share other than a common share;
55. "prescribed" in the case of a form or the information to be given on a form, means prescribed by order of the Minister, and in any other case, means prescribed by regulation;
56. "principal amount" in relation to any obligation means the amount that, under the terms of the obligation or any agreement relating thereto, is the maximum amount or maximum aggregate amount, as the case may be, payable on account of the obligation by the issuer thereof, otherwise than as or on account of interest or as or on account of any premium payable by the issuer conditional upon the exercise by the issuer of a right to redeem the obligation before the maturity thereof;
57. "private corporation" has the meaning given to that expression by subsection 1 of section 83;
58. "property" means property of any kind whatsoever whether real or personal or corporeal or incorporeal and, without restricting the generality of the foregoing, includes a right of any kind whatever, a share or a chose in action and, unless a contrary intention is evident, money;
59. "public corporation" has the meaning given to that expression by subsection 1 of section 83;
60. "railway" includes a railway and part of a railway operated in whole or in part by steam, electricity or

other motive power, constructed and operated on highways or on land owned by the corporation that owns or operates it, or partly on highways and partly on such land, but does not include a street railway constructed or operated in whole or in part upon or along a highway under or by virtue of an agreement with or a by-law of a city or town;

61. "registered Canadian amateur athletic association" has the meaning given to that expression by subsection 4 of section 98;
62. "registered Canadian charitable organization" has the meaning given to that expression by subsection 4 of section 98;
63. "registered pension fund or plan" means an employees' superannuation or pension fund or plan accepted for registration by the Minister of National Revenue for purposes of the *Income Tax Act* (Canada) in respect of its constitution and operations for the fiscal year under consideration;
64. "registered supplementary unemployment benefit plan" has the meaning given to that expression by subsection 1 of section 119;
65. "regulations" means regulations made under this Act;
66. "resident in Canada" means resident in Canada for purposes of the *Income Tax Act* (Canada);
67. "restricted farm loss" has the meaning given to that expression by subsection 1 of section 33;
68. "share" means a share of capital stock of a corporation;
69. "shareholder" includes a member or other person entitled to receive payment of a dividend;
70. "subsidiary controlled corporation" means a corporation more than 50 per cent of the issued share capital of which, having full voting rights under all circumstances, belongs to the corporation to which it is subsidiary;
71. "subsidiary wholly-owned corporation" means a corporation all the issued share capital of which, except directors' qualifying shares, belong to the corporation to which it is subsidiary;

1970-71,
c. 63 (Can.)

72. "superannuation or pension benefit" includes any amount received out of or under a superannuation or pension fund or plan and without restricting the generality of the foregoing, includes any payment made to a beneficiary under the fund or plan or to an employer or former employer of the beneficiary thereunder,
- i. in accordance with the terms of the fund or plan,
 - ii. resulting from an amendment to or modification of the fund or plan, or
 - iii. resulting from the termination of the fund or plan;
73. "supplementary unemployment benefit plan" has the meaning given to that expression by subsection 1 of section 119;
74. "tax payable" by a corporation under any Part of the Act means the tax payable by the corporation as fixed by assessment or reassessment subject to variation on objection or appeal, if any, in accordance with sections 154 to 160, as the case may be;
75. "taxable Canadian corporation" has the meaning given to that expression by subsection 1 of section 83;
76. "taxable Canadian property" has the meaning given to that expression by subsection 1 of section 115 of the *Income Tax Act* (Canada) except that, for the purposes only of section 2, the expression "taxable Canadian property" includes a Canadian resource property, within the meaning given to that expression by subsection 12 of section 63, any property that would have been a Canadian resource property within the meaning given to that expression by subsection 12 of section 63, if it had been acquired after 1971, and an income interest in a trust resident in Canada; ^{1970-71, c. 63 (Can.)}
77. "taxable capital gain" has the meaning given to that expression by section 40;
78. "taxable dividend" has the meaning given to that expression by subsection 1 of section 83;
79. "taxable income" has the meaning given to that expression by section 9;

80. "taxable income earned in Canada" has the meaning given to that expression by section 10;
81. "taxable net gain" from dispositions of listed personal property has the meaning given to that expression by section 43;
82. "taxation year" means that fiscal year in relation to which the amount of a tax under this Act is being calculated when the expression is used to distinguish it from another fiscal year;
83. "tax-paid undistributed surplus on hand" has the meaning given to that expression by subsection 1 of section 83;
- 1970-71,
c. 63 (Can.) 84. "trust" has the meaning given to that expression by subsection 1 of section 248 of the *Income Tax Act* (Canada);
85. "unit trust" has the meaning given to that expression by subsection 2 of section 97;
86. "1971 capital surplus on hand" has the meaning given to that expression by subsection 1 or 2 of section 83;
87. "1971 undistributed income on hand" has the meaning given to that expression by subsection 4 or 5 of section 196 of the *Income Tax Act* (Canada).

"Taxation
year"

- (2) For the purposes of this Act, a reference to a taxation year ending in another year includes a reference to a taxation year ending coincidentally with that other year.

Arm's
length

- (3) For the purposes of this Act,
- (a) related persons shall be deemed not to deal with each other at arm's length; and
 - (b) it is a question of fact whether persons not related to each other were at a particular time dealing with each other at arm's length.

Relationship
defined

- (4) For the purpose of this Act "related persons", or persons related to each other, are,
- (a) individuals connected by blood relationship, marriage or adoption;
 - (b) a corporation and,
 - (i) a person who controls the corporation, if it is controlled by one person,

- (ii) a person who is a member of a related group that controls the corporation, or
 - (iii) any person related to a person described in subclause i or ii;
- (c) any two corporations,
- (i) if they are controlled by the same person or group of persons,
 - (ii) if each of the corporations is controlled by one person and the person who controls one of the corporations is related to the person who controls the other corporation,
 - (iii) if one of the corporations is controlled by one person and that person is related to any member of a related group that controls the other corporation,
 - (iv) if one of the corporations is controlled by one person and that person is related to each member of an unrelated group that controls the other corporation,
 - (v) if any member of a related group that controls one of the corporations is related to each member of an unrelated group that controls the other corporation, or
 - (vi) if each member of an unrelated group that controls one of the corporations is related to at least one member of an unrelated group that controls the other corporation.

(5) Where two corporations are related to the same corporation within the meaning of subsection 4, they shall, for the purposes of subsections 3 and 4, be deemed to be related to each other. Corporations related to each other

(6) In this Act,

Groups

- (a) “related group” means a group of persons each member of which is related to every other member of the group; and
- (b) “unrelated group” means a group of persons that is not a related group.

Control by
related
groups,
options, etc.

(7) For the purposes of subsection 4,

- (a) where a related group is in a position to control a corporation, it shall be deemed to be a related group that controls the corporation whether or not it is part of a larger group by whom the corporation is in fact controlled;
- (b) a person who had a right under a contract, in equity or otherwise, either immediately or in the future and either absolutely or contingently, to, or to acquire, shares in a corporation, or to control the voting rights of shares in a corporation, shall, except where the contract provided that the right is not exercisable until the death of an individual designated therein, be deemed to have had the same position in relation to the control of the corporation as if he owned the shares; and
- (c) where a person owns shares in two or more corporations, he shall as shareholder of one of the corporations be deemed to be related to himself as shareholder of each of the other corporations.

Persons
related by
blood
relationship,
etc.

(8) For the purposes of this Act,

- (a) persons are connected by blood relationship if one is the child or other descendant of the other or one is the brother or sister of the other;
- (b) persons are connected by marriage if one is married to the other or to a person who is so connected by blood relationship to the other; and
- (c) persons are connected by adoption if one has been adopted, either legally or in fact, as a child of the other or as the child of a person who is so connected by blood relationship, otherwise than as a brother or sister, to the other. R.S.O. 1970, c. 91, s. 1, *amended*.

LIABILITY FOR TAXES

Taxes
payable

2.—(1) Every corporation that is incorporated under the laws of Canada or a province thereof and that has a permanent establishment in Ontario shall for every fiscal year of the corporation pay to Her Majesty for the uses of Ontario the taxes imposed by this Act at the time and in the manner provided in this Act. R.S.O. 1970, c. 91, s. 4 (1), *amended*.

(2) Every corporation that is incorporated under the laws ^{Idem} of a jurisdiction outside Canada, which jurisdiction has not entered into a Tax Convention or Treaty with Canada for the fiscal year, and that at any time in the fiscal year or a previous fiscal year,

- (a) had a permanent establishment in Ontario within the meaning of section 7; or
- (b) owned real property in Ontario the income from which arose from the sale or rental thereof; or
- (c) disposed of taxable Canadian property within the meaning given to that expression by paragraph 77 of subsection 1 of section 1 that was property situated in Ontario as prescribed by regulation,

shall for every fiscal year of the corporation pay to Her Majesty for the uses of Ontario the taxes imposed by this Act at the time and in the manner provided in this Act.

(3) Every corporation that is incorporated under the laws ^{Idem} of a jurisdiction outside Canada, which jurisdiction has entered into a Tax Convention or Treaty with Canada for the fiscal year, and that, at any time in the fiscal year or a previous fiscal year,

- (a) had a permanent establishment in Ontario within the meaning of section 7; or
- (b) owned real property in Ontario the income from which arose from the sale or rental thereof and the corporation has elected to file a return of income under Part I of the *Income Tax Act* (Canada) pursuant to ^{1970-71, c. 63 (Can.)} section 216 of that Act; or
- (c) disposed of taxable Canadian property within the meaning given to that expression by paragraph 77 of subsection 1 of section 1 that was property situated in Ontario as prescribed by regulation,

shall for every fiscal year of the corporation pay to Her Majesty for the uses of Ontario the taxes imposed by this Act at the time and in the manner provided in this Act. R.S.O. 1970, c. 91, s. 4 (1), *amended*.

(4) For the purposes of the election referred to in clause b ^{Idem} of subsection 3, the reference in that subsection to "at any time in the fiscal year or a previous fiscal year," shall be read without reference to "or a previous fiscal year".

3. For the purposes of subsection 2 or 3 of section 2, a ^{Interpretation} corporation "owned real property" if it had a legal, equitable or beneficial interest in the real property. R.S.O. 1970, c. 91, s. 3 (10), *amended*.

Calendar
year

4. For the purposes of this Act, where a fiscal year is referred to by a reference to a calendar year, the reference is to the fiscal year or years coinciding with, or ending in, that year. R.S.O. 1970, c. 91, s. 4 (2).

Incomplete
fiscal
year

5. Where a corporation ceases to be liable for taxes imposed under this Act during a fiscal year or the existence of a corporation is terminated during a fiscal year, it shall, in respect of such incomplete fiscal year, pay the taxes imposed by this Act in the same manner as though such fiscal year ended on the date on which it ceased to be liable for taxes or upon which its existence was terminated, as the case may be. R.S.O. 1970, c. 91, s. 4 (3), *amended*.

How tax
to be
determined

6.—(1) Unless otherwise provided in this Act, any tax imposed by this Act shall be determined on the amount of the paid-up capital stock, mileage or other subject in respect of which the amount of the tax is to be ascertained as such paid-up capital stock, mileage or other subject stood at the close of the fiscal year of the corporation for which the tax is imposed.

Idem

(2) Any tax imposed by this Act that is to be calculated in respect of,

(a) the taxable income of a corporation; or

(b) the gross premiums that become payable to insurance corporations,

shall be calculated with reference to the taxable income earned or the gross premiums that become payable, as the case may be, during the fiscal year of the corporation for which the respective tax is imposed. R.S.O. 1970, c. 91, s. 72.

Permanent
establish-
ment

7.—(1) In this Act, “permanent establishment” includes branches, mines, oil wells, farms, timberlands, factories, workshops, warehouses, offices, agencies and other fixed places of business.

Idem

(2) Where a corporation carries on business through an employee or agent who has general authority to contract for the corporation or who has a stock of merchandise owned by the corporation from which he regularly fills orders which he receives, such employee or agent shall be deemed to operate a permanent establishment of the corporation.

Idem

(3) The fact that a corporation has business dealings through a commission agent, broker or other independent agent shall not of itself be deemed to mean that the corporation has a permanent establishment.

Idem

(4) The fact that a corporation has a subsidiary controlled corporation in a place or a subsidiary controlled corporation engaged in a trade or business in a place shall not of itself be

deemed to mean that the first-mentioned corporation is operating a permanent establishment in that place.

(5) An insurance corporation is deemed to have a permanent ^{Idem} establishment in each jurisdiction in which the corporation is registered or licensed to do business.

(6) The fact that a corporation maintains an office solely for ^{Idem} the purchase of merchandise shall not of itself be deemed to mean that the corporation has a permanent establishment in that office.

(7) Where a corporation, otherwise having a permanent ^{Idem} establishment in Canada, owns land in a province, such land is a permanent establishment.

(8) The fact that a non-resident corporation in a fiscal year ^{Idem} produced, grew, mined, created, manufactured, fabricated, improved, packed, preserved or constructed in whole or in part anything in Canada whether or not the corporation exported that thing without selling it prior to exportation, shall of itself, for the purposes of this Act, be deemed to mean that the corporation maintained a permanent establishment at any place where the corporation did any of those things in the fiscal year.

(9) The use of substantial machinery or equipment in a ^{Idem} particular place at any time in a fiscal year of a corporation constitutes a permanent establishment of such corporation in that place for the fiscal year.

(10) Where a corporation has no fixed place of business, it ^{Idem} has a permanent establishment in the principal place in which the corporation's business is conducted.

(11) A corporation has a permanent establishment in the ^{Idem} place designated in its charter or by-laws as being its head office. R.S.O. 1970, c. 91, s. 3, *amended*.

PART II

DIVISION A—LIABILITY FOR INCOME TAX

8.—(1) Except as otherwise provided in this Part, every ^{Income tax} corporation liable to the taxes imposed under this Act by virtue of subsection 1 of section 2, shall, for every fiscal year of the corporation pay an income tax as hereinafter required upon its taxable income.

(2) Except as otherwise provided in this Part, every cor- ^{Idem} poration liable to the taxes imposed under this Act by virtue of subsection 2 or 3 of section 2, shall, for every fiscal year of the corporation pay an income tax as hereinafter required upon its taxable income earned in Canada. R.S.O. 1970, c. 91, s. 4 (1), *amended*.

- Idem** **9.** The taxable income of a corporation for a fiscal year is its income for the fiscal year minus the deductions permitted by Division C. R.S.O. 1970, c. 91, s. 14, *amended*.
- Idem** **10.** The taxable income earned in Canada of a corporation for a fiscal year is its taxable income earned in Canada determined under Division D. *New*.
- Exemptions** **11.** Except as provided in subsection 3 or 4 of section 122 no tax is payable under this Part upon the taxable income of a corporation for a period when that corporation was a corporation referred to in section 122. *New*.

DIVISION B—COMPUTATION OF INCOME

Basic Rules

- Income for fiscal year** **12.** The income of a corporation for a fiscal year for purposes of this Part is its income for the year determined by the following rules,
- (a) determine the aggregate of amounts each of which is the income of the corporation for the fiscal year, other than a taxable capital gain from the disposition of a property, from a source inside or outside Canada, including, without restricting the generality of the foregoing, its income for the fiscal year from each business and property;
 - (b) determine the amount, if any, by which,
 - (i) the aggregate of its taxable capital gains for the fiscal year from dispositions of property other than listed personal property, and its taxable net gain for the fiscal year from dispositions of listed personal property,

exceeds,

 - (ii) its allowable capital losses for the fiscal year from dispositions of property other than listed personal property;
 - (c) determine the amount, if any, by which the aggregate determined under clause *a* plus the amount determined under clause *b* exceeds the aggregate of the deductions permitted by Subdivision D in computing the income of the corporation for the fiscal year, except such of or such part of those deductions, if any, as have been taken into account in determining the aggregate referred to in clause *a*; and

- (d) determine the amount, if any, by which the remainder determined under clause *c* exceeds the aggregate of amounts each of which is its loss for the fiscal year from a business or property,

and the remainder, if any, obtained under clause *d* is the income of the corporation for the fiscal year for the purposes of this Part. R.S.O. 1970, c. 91, s. 15, *amended*.

13.—(1) For the purposes of this Act,

- (a) the income or loss of a corporation for a fiscal year from a business, property or other source, or from sources in a particular place, is its income or loss, as the case may be, computed in accordance with this Act on the assumption that it had during the fiscal year no income or loss except from that source or no income or loss except from those sources, as the case may be, and was allowed no deductions in computing its income for the fiscal year except such deductions as may reasonably be regarded as wholly applicable to that source or to those sources, as the case may be, and except such part of any other deductions as may reasonably be regarded as applicable thereto; and R.S.O. 1970, c. 91, s. 25 (4), *amended*.
- (b) where the business carried on or the service performed by a corporation was carried on or performed, as the case may be, partly in one place and partly in another place, the income or loss of the corporation for the fiscal year from the business carried on or the service performed by it in a particular place is the income or loss of the corporation, as the case may be, computed in accordance with this Act on the assumption that it had during the fiscal year no income or loss except from the part of the business that was carried on or the service performed in that particular place, as the case may be, and was allowed no deductions in computing its income for the fiscal year except such deductions as may reasonably be regarded as wholly applicable to that part of the business or the services performed, as the case may be, and except such part of any other deductions as may reasonably be regarded as applicable thereto. R.S.O. 1970, c. 91, s. 25 (5), *amended*.

Income or
loss from
a source
or from
sources in a
place

(2) Subject to subsection 3, in applying subsection 1 for the purposes of this Part, no deductions permitted by subsection 1 of section 60 are applicable either wholly or in part to a particular source or to sources in a particular place, as the case may be. *New*.

Deductions
applicable

(3) In applying clause *b* of subsection 1 for the purposes of section 101 all deductions allowed in computing the income of a corporation for a fiscal year for the purposes of this Part shall be deemed to be applicable either wholly or in part to a particular source or to sources in a particular place, as the case may be. *New*.

Limitation
respecting
inclusions
and
deductions

(4) Unless a contrary intention is evident, no provision of this Part shall be read or construed to require the inclusion or to permit the deduction, in computing the income of a corporation for a fiscal year or its income or loss for a fiscal year from a particular source or from sources in a particular place, of any amount to the extent that that amount has been included or deducted, as the case may be, in computing such income or loss under, in accordance with or by virtue of any other provision of this Part. *New*.

SUBDIVISION A—INCOME OR LOSS FROM A BUSINESS OR PROPERTY

Basic Rules

Income
from
business or
property

14.—(1) Subject to this Part, the income of a corporation for a fiscal year from a business or property is its profit therefrom for the fiscal year. R.S.O. 1970, c. 91, s. 16, *amended*.

Loss from
business or
property

(2) Subject to section 33, the loss of a corporation for a fiscal year from a business or property is the amount of its loss, if any, for the fiscal year from that source computed by applying the provisions of this Act respecting computation of income from that source *mutatis mutandis*.

Gains and
losses not
included

(3) In this Act, “income from a property” does not include any capital gain from the disposition of that property and “loss from a property” does not include any capital loss from the disposition of that property. *New*.

Valuation
of inventory
property

15.—(1) For the purpose of computing income from a business, the property described in an inventory shall, except as provided in subsection 2, be valued at the same amount and for the same fiscal year, as is accepted for assessment under the *Income Tax Act* (Canada) and the regulations made thereunder. R.S.O. 1970, c. 91, s. 26 (1), *amended*.

1970-71,
c. 63 (Can.)

Idem

(2) Notwithstanding subsection 1, the Minister may determine the value of the property described in an inventory for the purposes of assessment under this Act if he is of the opinion that the values have been incorrectly determined by the corporation. *New*.

(3) Notwithstanding subsections 1 and 2, for the purpose of ^{Idem} computing income for a fiscal year from a business, the property described in an inventory at the commencement of the fiscal year shall be valued at the same amount as the amount at which it was valued at the end of the immediately preceding fiscal year for the purpose of computing income for that preceding fiscal year. R.S.O. 1970, c. 91, s. 26 (2), *amended*.

(4) Where the property described in the inventory of a ^{Incorrect valuation} business at the commencement of a fiscal year has, according to the method adopted by the corporation for computing income from the business for that fiscal year, not been valued as required by subsection 1 or 2, the property described therein at the commencement of that fiscal year shall, if the Minister so directs, be deemed to have been valued as required by that subsection. R.S.O. 1970, c. 91, s. 36, *amended*.

Inclusions

16.—(1) There shall be included in computing the income of a corporation for a fiscal year as income from a business or property such of the following amounts as are applicable, ^{Amounts to be included as income from business or property}

(a) any amount received by the corporation in the year ^{Services, etc., to be rendered} in the course of a business,

(i) that is on account of services not rendered or goods not delivered before the end of the year or that, for any other reason, may be regarded as not having been earned in the year or a previous year, or

(ii) under an arrangement or understanding that it is repayable in whole or in part on the return or resale to the corporation of articles in or by means of which goods were delivered to a customer; R.S.O. 1970, c. 91, s. 61 (1) (a).

(b) any amount receivable by the corporation in respect of property sold or services rendered in the course of a business in the year, notwithstanding that the amount may not be receivable until a subsequent year, unless the method adopted by the corporation for computing income from the business and accepted for the purpose of this Part does not require it to include any amount receivable in computing its income for a fiscal year unless it has been received in the year; R.S.O. 1970, c. 91, s. 61 (1) (b). ^{Amounts receivable in respect of services, etc., rendered}

(c) any amount received by the corporation in the year ^{Interest} or receivable by the corporation in the year, depend-

ing upon the method regularly followed by the corporation in computing its profit, as, on account or in lieu of payment of, or in satisfaction of, interest; R.S.O. 1970, c. 91, s. 17 (c).

Reserve for doubtful debts

- (d) any amount deducted as a reserve for doubtful debts in computing the corporation's income for the immediately preceding year; R.S.O. 1970, c. 91, s. 17 (e).

Reserves in respect of certain goods and services, etc.

- (e) any amount,
- (i) deducted under clause *o* of subsection 1 of section 24, including any amount substituted by virtue of subsection 7 of section 24 for any amount deducted under that clause, or subsection 8 of section 24, or
 - (ii) deducted under clause *p* of subsection 1 of section 24 or subsection 8 of section 24,

in computing the corporation's income from a business for the immediately preceding year; R.S.O. 1970, c. 91, s. 61 (1) (f).

Insurance proceeds expended

- (f) such part of any amount payable to the corporation as compensation for damage to, or under a policy of insurance in respect of damage to, property that is depreciable property of the corporation as has been expended by the corporation,

(i) within the year, and

(ii) within a reasonable time after the damage,

on repairing the damage; R.S.O. 1970, c. 91, s. 17 (f).

Payments based on production or use

- (g) any amount received by the corporation in the year that was dependent upon the use of or production from property whether or not that amount was an instalment of the sale price of the property, except that an instalment of the sale price of agricultural land is not included by virtue of this clause; R.S.O. 1970, c. 91, s. 17 (i).

Previous reserve for quadrennial survey

- (h) any amount deducted as a reserve under clause *q* of subsection 1 of section 24 in computing the corporation's income for the immediately preceding year; R.S.O. 1970, c. 91, s. 17 (g).

- (i) any amount received in the year on account of a ^{Bad debts recovered} debt in respect of which a deduction for bad debts had been made in computing the corporation's income for a previous year; R.S.O. 1970, c. 91, s. 17 (h).
- (j) any amount required by Subdivision G to be included ^{Dividends from corporations resident in Canada} in computing the corporation's income for the year in respect of a dividend paid by a corporation resident in Canada on a share of its capital stock; R.S.O. 1970, c. 91, s. 17 (a).
- (k) any amount required by Subdivision H to be included ^{Dividends from other corporations} in computing the corporation's income for the year in respect of a dividend paid by a corporation not resident in Canada on a share of its capital stock;
- (l) any amount that is, by virtue of Subdivision I income ^{Partnership income} of the corporation for the year from a business or property; R.S.O. 1970, c. 91, s. 17 (d).
- (m) any amount required by Subdivision J to be included ^{Benefits from estates, etc.} in computing the income of a corporation for the year except any amount deemed by that subdivision to be a taxable capital gain of the corporation; and *New*.
- (n) any amount received by the corporation in the ^{Employees profit sharing plan} year under an employees profit sharing plan established for the benefit of employees of the corporation or of another corporation with whom the corporation does not deal at arm's length. R.S.O. 1970, c. 91, s. 17 (j).

(2) Clauses *a* and *b* of subsection 1 are enacted for greater ^{Interpre-} certainty and shall not be construed as implying that any amount not referred to therein is not to be included in computing income from a business for a fiscal year whether it is received or receivable in the year or not. R.S.O. 1970, c. 91, s. 61 (2).

17.—(1) Where depreciable property of a corporation of a ^{Excess of proceeds over undepreciated capital cost} prescribed class has, in a fiscal year, been disposed of and the proceeds of disposition exceed the undepreciated capital cost to it of depreciable property of that class immediately before the disposition, the lesser of,

- (a) the amount of the excess; and
- (b) the amount that the excess would be if the property had been disposed of for the capital cost thereof to the corporation,

shall be included in computing the income of the corporation for the year. R.S.O. 1970, c. 91, s. 32 (1).

Deter-
mination of
net amount

(2) Where one or more amounts are by subsection 1 required to be included in computing a corporation's income for a fiscal year in respect of the disposition of depreciable property of a prescribed class and the corporation has, during the year but following the dispositions, acquired further depreciable property of that class, notwithstanding subsection 1 and clause *f* of subsection 17 the following rules apply,

- (a) if the aggregate of the amounts that would, according to the terms of subsection 1, be included thereunder in computing the income of the corporation is equal to or exceeds the amount that would, according to the terms of clause *f* of subsection 17, be the undepreciated capital cost to the corporation of depreciable property of that class at the end of the year before any deduction is made under clause *a* of subsection 1 of section 24 for that year,
 - (i) the amount to be included in computing the income of the corporation for the year under subsection 1 in respect of dispositions of depreciable property of that class is that aggregate minus the amount that would be that undepreciated capital cost, and
 - (ii) the undepreciated capital cost to the corporation of depreciable property of that class at the end of the year is nil; and
- (b) if the aggregate of the amounts that would, according to the terms of subsection 1, be included thereunder in computing the income of the corporation is less than the amount that would, according to the terms of clause *f* of subsection 17, be the undepreciated capital cost to the corporation of depreciable property of that class at the end of the year before any deduction is made under clause *a* of subsection 1 of section 24 for that year,
 - (i) no amounts shall be included in computing the income of the corporation for the year in respect of depreciable property of that class under subsection 1, and
 - (ii) the undepreciated capital cost to the corporation of depreciable property of that class at the end of the year before any deduction is made

under clause *a* of subsection 1 of section 24 for the year is the amount that it would be according to the terms of clause *f* of subsection 17 minus that aggregate. R.S.O. 1970, c. 91, s. 32 (2).

(3) Where an amount that would otherwise be included in computing the income of a corporation for a fiscal year, hereinafter referred to as the "initial year", by virtue of this section is, ^{Insurance and compensation proceeds}

- (a) an amount payable, in respect of loss or destruction of property of a prescribed class,
 - (i) under a policy of insurance, or
 - (ii) otherwise as compensation for the property so lost or destroyed; or
- (b) an amount payable as compensation for property of a prescribed class taken under statutory authority or as the sale price of property sold to a person by whom notice of an intention to take it under statutory authority was given,

the following rules apply,

- (c) the amount shall not, to the extent that it has been expended by the corporation,
 - (i) in the fiscal year immediately following the initial year on acquiring property of the same class,
 - (ii) in the fiscal year immediately following the initial year on acquiring, if the property so lost, destroyed, taken or sold was a building, a building of a prescribed class, or
 - (iii) within a time certified by the Minister to be a reasonable time following the initial year, on acquiring, if the property so lost, destroyed, taken or sold was a vessel, a vessel of a prescribed class,

be included in computing the income of the corporation for the initial year; and

- (d) the amount shall, to the extent that it has not been included in computing the income of the corporation for the initial year, be deemed to be proceeds of a disposition made,

- (i) in the case of a vessel, in the fiscal year in which it is in whole or in part expended in accordance with clause *c*, but only to the extent that it is so expended in that year and only if such year is within the time certified by the Minister under subclause iii of clause *c*, and
- (ii) in the case of any other property, in the fiscal year immediately following the initial year,

of depreciable property of the corporation of the same class as the property so acquired. R.S.O. 1970, c. 91, s. 32 (5).

Transferred
property

(4) Where depreciable property of a corporation that was included in a prescribed class, hereinafter in this subsection referred to as the "former class", has been transferred to another prescribed class, hereinafter in this subsection referred to as the "other class", for the purposes of clause *f* of subsection 17,

(a) there shall be added to the capital cost to the corporation of depreciable property of the former class acquired before the transfer, the greater of,

(i) the amount, if any, by which the capital cost to the corporation of the transferred property exceeds the undepreciated capital cost to the corporation of depreciable property of the former class immediately before the transfer, and

(ii) the aggregate of all amounts that would have been allowed to the corporation in respect of the transferred property, if it had been a prescribed class, at the rate that was allowed to the corporation in respect of property of the former class under regulations made under clause *a* of subsection 1 of section 24 in computing income for the fiscal years before the transfer; and

(b) there shall be added to the total depreciation allowed to the corporation for property of the other class the greater of the amounts determined under subclauses i and ii of clause *a*. R.S.O. 1970, c. 91, s. 32 (6), *amended*.

Misclassified
property

(5) Where, in calculating the amount of a deduction allowed to a corporation under regulations made under clause *a* of subsection 1 of section 24 in respect of depreciable property of the corporation of a prescribed class, there has been added to

the capital cost to the corporation of depreciable property of that class the capital cost of depreciable property, hereinafter in this subsection referred to as "added property", of another prescribed class, for the purpose of this section and regulations made under clause *a* of subsection 1 of section 24 the added property shall, if the Minister so directs with reference to any fiscal year for which, within the time specified in clause *a* or *b* of subsection 4 of section 150, the Minister may make any reassessment or additional assessment or assess tax interest or penalties under this Part as the circumstances require, be deemed to have been property of the first-mentioned class and not of the other class at all times before the commencement of that year and, except to the extent that that property or any part thereof has been disposed of by the corporation before the commencement of that year, to have been transferred from the first-mentioned class to the other class at the commencement of that year. R.S.O. 1970, c. 91, s. 32 (7).

(6) For the purpose of this section and any regulations made ^{Rules} _{applicable} under clause *a* of subsection 1 of section 24, the following rules apply:

1. Where a corporation having acquired property for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, has commenced at a later time to use it for some other purpose, the corporation shall be deemed to have disposed of it at that later time at its fair market value at that time. R.S.O. 1970, c. 91, s. 32 (8) par. 1.
2. Where a corporation, having acquired property for some other purpose, has commenced at a later time to use it for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, the corporation shall be deemed to have acquired it at that later time at its fair market value at that time. R.S.O. 1970, c. 91, s. 32 (8) par. 2.
3. Where property has, since it was acquired by a corporation, been regularly used in part for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business and in part for some other purpose, the corporation shall be deemed to have acquired, for the purpose of gaining or producing income, the proportion of the property that the use regularly made of the property for gaining or producing income is of the whole use regularly made of the property at a capital cost to the

corporation equal to the same proportion of the capital cost to it of the whole property; and, if the property has, in such a case, been disposed of, the proceeds of disposition of the proportion of the property deemed to have been acquired for gaining or producing income shall be deemed to be the same proportion of the proceeds of disposition of the whole property. R.S.O. 1970, c. 91, s. 32 (8) par. 5.

4. Where, at any time after a corporation has acquired property, there has been a change in the relation between the use regularly made by the corporation of the property for gaining or producing income and the use regularly made of the property for other purposes,
 - (i) if the use regularly made by the corporation of the property for the purpose of gaining or producing income has increased, the corporation shall be deemed to have acquired at that time depreciable property of that class at a capital cost equal to the proportion of the fair market value of the property as of that time that the amount of the increase in the use regularly made by the corporation of the property for that purpose is of the whole use regularly made of the property, and
 - (ii) if the use regularly made of the property for the purpose of gaining or producing income has decreased, the corporation shall be deemed to have disposed at that time of depreciable property of that class and the proceeds of disposition shall be deemed to be an amount equal to the proportion of the fair market value of the property as of that time that the amount of the decrease in the use regularly made by the corporation of the property for that purpose is of the whole use regularly made of the property. R.S.O. 1970, c. 91, s. 32 (8) par. 6.
5. Where a corporation has received or is entitled to receive a grant, subsidy or other assistance from a government, municipality or other public authority in respect of or for the acquisition of property, other than an amount authorized to be paid under an *Appropriation Act* (Canada) in respect of which the provisions of clause *e* of subsection 7 of section 13 of the *Income Tax Act* (Canada) would not apply, or an

amount authorized to be paid under the *Industrial Research and Development Incentives Act* (Canada) or the *Area Development Incentives Act* (Canada) and approved by the Minister, the capital cost of the property shall be deemed to be the capital cost thereof to the corporation minus the amount of the grant, subsidy or other assistance. R.S.O. 1970, c. 91, s. 32 (8) par. 8.

(7) In applying paragraphs 1, 2, 3 and 4 of subsection 6 in respect of a corporation not resident in Canada, a reference to a "business" shall be read as a reference to a business wholly carried on in Canada or such part of a business as is wholly carried on in Canada. R.S.O. 1970, c. 91, s. 32 (9). "Business" defined

(8) Where, in computing the income of a corporation for a fiscal year, an amount has been deducted under clause *ee* of subsection 1 of section 24 or the corporation has elected under subsection 10 of section 24 to make a deduction in respect of an amount that would otherwise have been deductible under that clause, the amount shall, if it was a payment on account of the capital cost of depreciable property, be deemed to have been allowed to the corporation in respect of the property under regulations made under clause *a* of subsection 1 of section 24 in computing the income of the corporation, Application of s. 24 (1) (ee)

(a) for the fiscal year; or

(b) for the fiscal year in which the property was acquired,

whichever is the later. R.S.O. 1970, c. 91, s. 32 (12).

(9) Where a deduction has been made under the *Canadian Vessel Construction Assistance Act* for any year, subsection 1 is applicable in respect of the prescribed class created by that Act or any other prescribed class to which the vessel may have been transferred. R.S.O. 1970, c. 91, s. 32 (13). Where deduction under Canadian Vessel Construction Assistance Act

(10) For the purposes of this section and any regulations made under clause *a* of subsection 1 of section 24 a vessel in respect of which any conversion cost is incurred after March 23, 1967 shall, to the extent of the conversion cost, be deemed to be included in a separate prescribed class. R.S.O. 1970, c. 91, s. 32 (14). Conversion cost of vessel deemed prescribed class

(11) Where a vessel owned by a corporation on January 1, 1966 or constructed pursuant to a construction contract entered into by the corporation prior to 1966 and not completed by that date is disposed of by the corporation before 1974, Subs. 1 and Subdivision B not applicable in certain cases

(a) subsection 1 and Subdivision B do not apply to the proceeds of disposition,

(i) if an amount at least equal to the proceeds of disposition is used by the corporation, before 1974 and during the fiscal year of the corporation in which the vessel is disposed of or within 4 months from the end of the fiscal year, under conditions satisfactory to the Minister, either for replacement or to incur any conversion cost with respect to a vessel owned by the corporation, or

(ii) if the Minister certifies that the corporation has, on satisfactory terms deposited,

(A) on or before the day on which the corporation is required to file a return for the fiscal year in which the vessel was disposed of, or

(B) on or before such day subsequent to the day referred to in sub-subclause A, as the Minister may specify in respect of the corporation,

an amount at least equal to the tax that would, but for this subsection, be payable by the corporation under this Part in respect of the proceeds of disposition, or satisfactory security therefor, as a guarantee that the proceeds of disposition will be used before 1974 for replacement; and

(b) the corporation may, within the time prescribed for the filing of a return for the fiscal year in which the vessel was disposed of, elect to have the vessel constituted a prescribed class, or, if any conversion cost in respect of the vessel has been included in a separate prescribed class, have it transferred to that class, and, if the corporation so elects, the vessel shall be deemed to have been so transferred immediately before the disposition thereof but this clause does not apply unless the proceeds of disposition of the vessel exceed the amount that would be the undepreciated capital cost of the property of the class to which it would be so transferred. R.S.O. 1970, c. 91, s. 32 (15).

Election in
respect of
proceeds of
disposition
of vessel

(12) Where a vessel owned by a corporation is disposed of by it, the corporation may, if subsection 11 does not apply

to the proceeds of disposition or if the corporation does not make an election under clause *b* of subsection 11, within the time prescribed for the filing of a return for the fiscal year in which the vessel is disposed of, elect to have the proceeds that would be included in computing its income for the year by virtue of this Part treated as proceeds of disposition of property of another prescribed class that includes a vessel owned by the corporation. R.S.O. 1970, c. 91, s. 32 (16).

(13) Where a separate prescribed class has been constituted either under this Act or the *Canadian Vessel Construction Assistance Act* by virtue of the conversion of a vessel owned by a corporation and the vessel is disposed of by the corporation, if no election is made under clause *b* of subsection 11, the separate prescribed class constituted by virtue of the conversion shall be deemed to have been transferred to the class in which the vessel was included immediately before the disposition thereof. R.S.O. 1970, c. 91, s. 32 (17).

Prescribed class constituted by conversion cost deemed part of class constituted by vessel on disposition

(14) Notwithstanding any other provision of this Act, where a corporation has,

Reassessments

- (a) expended an amount as described in subclause iii of clause *c* of subsection 3; or
- (b) made an election under clause *b* of subsection 11 with respect to a vessel and the proceeds of disposition of the vessel have been used before 1974 for replacement under conditions satisfactory to the Minister,

such reassessments of tax, interest or penalties shall be made as are necessary to give effect to subsections 3 and 11. R.S.O. 1970, c. 91, s. 32 (18).

(15) All or any part of a deposit made under subclause ii of clause *a* of subsection 11 or under the *Canadian Vessel Construction Assistance Act* may be paid out to or on behalf of any corporation which, under conditions satisfactory to the Minister and as a replacement for the vessel disposed of, acquires a vessel before 1974,

Disposition of deposit

- (a) that was constructed in Canada and is registered in Canada or is registered under conditions satisfactory to the Minister in any country or territory to which the British Commonwealth Merchant Shipping Agreement (signed at London on December 10, 1931) applies; and

- (b) in respect of the capital cost of which no allowance has been made to any other corporation under this Act or the *Canadian Vessel Construction Assistance Act*,

or incurs any conversion cost with respect to a vessel owned by the corporation that is registered in Canada or is registered under conditions satisfactory to the Minister in any country or territory to which the said British Commonwealth Merchant Shipping Agreement applies, but the ratio of the amount paid out to the amount of the deposit shall not exceed the ratio of the capital cost to the corporation of the vessel or the conversion cost to the corporation of the vessel, as the case may be, to the proceeds of disposition of the vessel disposed of; and any deposit or part of a deposit not so paid out before 1974 or not paid out pursuant to subsection 16 shall be paid to the Treasurer of Ontario. R.S.O. 1970, c. 91, s. 32 (19).

Idem

(16) Notwithstanding any other provision of this section, where a deposit was made by a corporation under subclause ii of clause *a* of subsection 11 and the proceeds of disposition in respect of which the deposit was made are not used by any corporation before 1974 under conditions satisfactory to the Minister as a replacement for the vessel disposed of,

- (a) to acquire a vessel described in clauses *a* and *b* of subsection 15; or
- (b) to incur any conversion cost with respect to a vessel owned by that corporation that is registered in Canada or is registered under conditions satisfactory to the Minister in any country or territory to which the British Commonwealth Merchant Shipping Agreement applies,

the Minister may refund to the corporation the deposit, or the part thereof not paid out to the corporation under subsection 15, as the case may be, in which case there shall be added, in computing the income of the corporation for the fiscal year of the corporation in which the vessel was disposed of, that proportion of the amount that would have been included in computing the income of the corporation for the year by virtue of this Part had the deposit not been made under subclause ii of clause *a* of subsection 11 that the portion of the proceeds of disposition not so used before 1974 as such a replacement is of the proceeds of disposition; and notwithstanding any other provision of this Act such reassessments of tax, interest or penalties shall be made as are necessary to give effect to this subsection. R.S.O. 1970, c. 91, s. 32 (20).

(17) In this section and any regulations made under ^{Interpre-} clause *a* of subsection 1 of section 24,

- (a) "conversion", in respect of a vessel, means a conversion or major alteration in Canada by a corporation in accordance with plans approved in writing by the Minister of Industry, Trade and Commerce for purposes of the *Income Tax Act* (Canada) and by the Minister, and "conversion cost" means the cost of a conversion as determined by the Minister; ^{1970-71, c. 63 (Can.)}
- (b) "depreciable property" of a corporation as of any time in a fiscal year means property in respect of which the corporation has been allowed, or is entitled to, a deduction under regulations made under clause *a* of subsection 1 of section 24 in computing income for that or a previous fiscal year;
- (c) "disposition of property" includes any transaction or event entitling a corporation to proceeds of disposition of property;
- (d) "proceeds of disposition" of property includes,
 - (i) the sale price of property that has been sold,
 - (ii) compensation for property unlawfully taken,
 - (iii) compensation for property destroyed and any amount payable under a policy of insurance in respect of loss or destruction of property,
 - (iv) compensation for property taken under statutory authority or the sale price of property sold to a person by whom notice of an intention to take it under statutory authority was given,
 - (v) compensation for property injuriously affected, whether lawfully or unlawfully or under statutory authority or otherwise,
 - (vi) compensation for property damaged and any amount payable under a policy of insurance in respect of damage to property, except to the extent that such compensation or amount, as the case may be, has within a reasonable time after the damage been expended on repairing the damage,

- (vii) an amount by which the liability of a corporation to a mortgagee is reduced as a result of the sale of mortgaged property under a provision of the mortgage, plus any amount received by the corporation out of the proceeds of such sale, and
 - (viii) any amount included in computing a corporation's proceeds of disposition of the property by virtue of clause *c* of section 70;
- (e) "total depreciation" allowed to a corporation before any time for property of a prescribed class means the aggregate of all amounts allowed to the corporation in respect of property of that class under regulations made under clause *a* of subsection 1 of section 24 in computing income for fiscal years before that time;
- (f) "undepreciated capital cost" to a corporation of depreciable property of a prescribed class as of any time means the capital cost to the corporation of depreciable property of that class acquired before that time minus the aggregate of,
- (i) the total depreciation allowed to the corporation for property of that class before that time,
 - (ii) for each disposition before that time of property of the corporation of that class, the least of,
 - (A) the proceeds of disposition of the property,
 - (B) the capital cost to the corporation of the property, and
 - (C) the undepreciated capital cost to the corporation of property of that class immediately before the disposition,
 - (iii) each amount by which the undepreciated capital cost to the corporation of depreciable property of that class as of the end of a previous year was reduced by virtue of subsection 2, and
 - (iv) where the property of that class was acquired by the corporation for the purpose of gaining or producing income from a mine and the cor-

poration so elects in prescribed manner and within a prescribed time in respect of that property, an amount equal to that portion of the income derived from the operation of the mine that is, by virtue of the provisions of the *Corporations Tax Application Rules, 1972* relating to income from the operation of new mines, not included in computing income of the corporation or any other corporation; and

- (g) "vessel" means a vessel as defined in the *Canada Shipping Act*. R.S.O. 1970, c. 91, s. 32 (4). R.S.C. 1970,
c. S-9

18.—(1) Where, as a result of a transaction occurring after 1971, an amount has become payable to a corporation in a fiscal year in respect of a business carried on or formerly carried on by the corporation and the consideration given by the corporation therefor was such that, if any payment had been made by the corporation after 1971 for that consideration, the payment would have been an eligible capital expenditure of the corporation in respect of the business, there shall be included in computing the corporation's income for the year from the business the amount, if any, by which one-half of the amount so payable, which one-half is hereafter in this section referred to as an "eligible capital amount" in respect of the business, exceeds the cumulative eligible capital of the corporation in respect of the business immediately before the amount so payable became payable to the corporation. Sale of
goodwill
and other
"nothings"

(2) Where any amount is, by any provision of this Act, deemed to be a corporation's proceeds of disposition of any property disposed of by the corporation at any time, for the purposes of subsection 1 that amount shall be deemed to have become payable to it at that time. Amount
deemed
payable

(3) Where a corporation has, during a fiscal year but after the latest time at which any amount payable to the corporation, in respect of which the corporation is required by subsection 1 to include an amount in computing its income for the year from a business, became payable to the corporation, made or incurred outlays or expenses that are eligible capital expenditures in respect of the business, notwithstanding subsection 1 and clause *a* of subsection 4, the following rules apply, Subsequent
outlays or
expenses

- (a) if the aggregate of the amounts that would, according to the terms of subsection 1, be included in computing the income of a corporation for the year from the business is equal to or exceeds its

cumulative eligible capital in respect of the business at the end of the year,

- (i) the amount to be included in computing the corporation's income for the year from the business under subsection 1 is that aggregate minus the amount that would otherwise be its cumulative eligible capital in respect of the business at the end of the year, and
 - (ii) the corporation's cumulative eligible capital in respect of the business at the end of the year is nil; and
- (b) if the aggregate of amounts that would, according to the terms of subsection 1, be included in computing the corporation's income for the year from the business is less than its cumulative eligible capital in respect of the business at the end of the year,
- (i) no amounts shall be included in computing the corporation's income for the year from the business under subsection 1, and
 - (ii) the corporation's cumulative eligible capital in respect of the business at the end of the year is the amount thereof otherwise determined minus that aggregate.

Inter-
pretation

(4) In this section,

- (a) "cumulative eligible capital" of a corporation at any time in respect of a business means,
 - (i) one-half of the aggregate of the eligible capital expenditures in respect of the business made or incurred by the corporation before that time,

minus,

- (ii) the aggregate of,
 - (A) all amounts each of which is an amount in respect of any fiscal year of the corporation ending before that time, equal to the amount deducted under clause *b* of subsection 1 of section 24 in computing the income of the corporation for that year from the business,

- (B) for each eligible capital amount in respect of the business that became payable to the corporation before that time, the lesser of,
 1. the eligible capital amount, and
 2. the cumulative eligible capital of the corporation in respect of the business immediately before the disposition as a result of which the eligible capital amount became payable, and
 - (C) all amounts by which the cumulative eligible capital of the corporation in respect of the business at the end of any fiscal year of the corporation ending before that time was reduced by virtue of subsection 3; and
- (b) “eligible capital expenditure” of a corporation in respect of a business means the portion of any outlay or expense made or incurred by it, as a result of a transaction occurring after 1971, on account of capital for the purpose of gaining or producing income from the business, other than any such outlay or expense,
- (i) in respect of which any amount is or would be, but for any provision of this Act limiting the quantum of any deduction, deductible, otherwise than under clause *b* of subsection 1 of section 24, in computing the income of the corporation from the business, or in respect of which any amount is, by virtue of any provision of this Act other than clause *b* of subsection 1 of section 22, not deductible in computing such income,
 - (ii) made or incurred for the purpose of gaining or producing income that is exempt income, or
 - (iii) that is the cost of, or any part of the cost of,
 - (A) tangible property of the corporation,
 - (B) intangible property that is depreciable property of the corporation,

- (C) property in respect of which any deduction, otherwise than under clause *b* of subsection 1 of section 24, is permitted in computing its income from the business or would be so permitted if its income from the business were sufficient for the purpose, or
- (D) an interest in, or right to acquire, any property described in any of sub-clauses A to C,

but, for greater certainty and without restricting the generality of the foregoing, does not include any portion of,

- (iv) any amount paid or payable, as the case may be, to any creditor of the corporation as, on account or in lieu of payment of any debt or as or on account of the redemption, cancellation or purchase of any bond or debenture,
- (v) any amount paid or payable, as the case may be, to a person as a shareholder of the corporation, or
- (vi) any amount that is the cost of, or any part of the cost of,
 - (A) an interest in a trust,
 - (B) an interest in a partnership,
 - (C) a share, bond, debenture, mortgage, hypothec, note, bill or other similar property, or
 - (D) an interest in, or right to acquire, any property described in any of sub-subclauses A to C. *New.*

Appropriation of property to shareholder

19.—(1) Where in a fiscal year,

- (a) a payment has been made by a corporation to a shareholder otherwise than pursuant to a *bona fide* business transaction;
- (b) funds or property of a corporation have been appropriated in any manner whatever to, or for the benefit of, a shareholder; or

- (c) a benefit or advantage has been conferred on a shareholder by a corporation,

otherwise than,

- (d) on the reduction of capital, the redemption of shares or the winding-up, discontinuance or reorganization of its business, or otherwise by way of a transaction to which section 78 or 82 of this Act or Part II of the *Income Tax Act* (Canada) applies; 1970-71,
c. 63 (Can.)
- (e) by the payment of a dividend; or
- (f) by conferring on all holders of common shares of the capital stock of the corporation a right to buy additional common shares thereof,

the amount or value thereof shall be included in computing the income of the corporation that is a shareholder therein for the year. R.S.O. 1970, c. 91, s. 20 (1) (a).

(2) Where a corporation has in a fiscal year made a loan ^{Loan to shareholder} to a shareholder, the amount thereof shall be included in computing the income of the shareholder for the year unless,

- (a) the loan was made,
- (i) in the ordinary course of its business and the lending of money was part of its ordinary business,
 - (ii) to an officer or servant of the corporation to enable or assist him to purchase or erect a dwelling house for his own occupation,
 - (iii) to an officer or servant of the corporation to enable or assist him to purchase from the corporation fully paid shares of the corporation to be held by him for his own benefit, or
 - (iv) to an officer or servant of the corporation to enable or assist him to purchase an automobile to be used by him in the performance of the duties of his office or employment,

and *bona fide* arrangements were made at the time the loan was made for repayment thereof within a reasonable time; or

- (b) the loan was repaid within one year from the end of the fiscal year of the corporation in which it was made and it is established, by subsequent events or otherwise, that the repayment was not made as a part of a series of loans and repayments,

and, where the shareholder is a corporation, the amount so included in computing its income for the year shall be deemed to have been received by it as a dividend.

Interest
on income
bonds

(3) An annual or other periodic amount paid by a corporation resident in Canada to another corporation in respect of an income bond or income debenture shall be deemed to have been paid by the paying corporation and received by the receiving corporation as a dividend on the share of the capital stock of the paying corporation unless it is entitled to deduct the amount so paid in computing its income.

Idem

(4) An annual or other periodic amount paid by a corporation not resident in Canada to another corporation in respect of an income bond or income debenture shall be deemed to have been received by the receiving corporation as a dividend unless the amount so paid was, under the laws of the country in which the paying corporation was resident, deductible in computing the amount for the fiscal year on which the corporation was liable to pay income or profits tax imposed by the government of that country.

Application

(5) For greater certainty, subsections 1 and 2 are applicable in computing the income of a shareholder for the purposes of this Part whether or not the paying corporation had a permanent establishment in Ontario. R.S.O. 1970, c. 91, s. 20 (4), *amended*.

Income and
capital
combined

20.—(1) Where a payment under a contract or other arrangement can reasonably be regarded as being in part a payment of interest or other payment of an income nature and in part a payment of a capital nature, the part of the payment that can reasonably be regarded as a payment of interest or other payment of an income nature shall, irrespective of when the contract or arrangement was made or the form or legal effect thereof, be included in computing the recipient's income from property. R.S.O. 1970, c. 91, s. 19 (1).

Obligation
issued at
discount

(2) Where, in the case of a bond, debenture, bill, note, mortgage, hypothec or similar obligation issued after December 20, 1960 and before June 18, 1971 by a person exempt from tax under section 149 of the *Income Tax Act* (Canada), a non-resident person not carrying on business in Canada, or a government, municipality or municipal or other public body performing a function of government,

1970-71,
c. 63 (Can.)

- (a) the obligation was issued for an amount that is less than the principal amount thereof;
- (b) the interest stipulated to be payable on the obligation, expressed in terms of an annual rate on,
 - (i) the principal amount thereof, if no amount is payable on account of the principal amount before the maturity of the obligation, or
 - (ii) the amount outstanding from time to time as or on account of the principal amount thereof, in any other case,

is less than 5 per cent; and

- (c) the yield from the obligation, expressed in terms of an annual rate on the amount for which the obligation was issued, which annual rate shall, if the terms of the obligation or any agreement relating thereto conferred upon the holder thereof a right to demand payment of the principal amount of the obligation or the amount outstanding as or on account of the principal amount thereof, as the case may be, before the maturity of the obligation, be calculated on the basis of the yield that produces the highest annual rate obtainable either on the maturity of the obligation or conditional upon the exercise of any such right, exceeds the annual rate determined under clause *b* by more than one-third thereof,

the amount by which the principal amount of the obligation exceeds the amount for which the obligation was issued shall be included in computing the income of the corporation that is the first owner of the obligation that is a resident of Canada and is not a corporation exempt from tax under section 149 of the *Income Tax Act* (Canada) or a government, for the ^{1970-71,} fiscal year of the owner of the obligation in which it became _{c. 63 (Can.)} the owner thereof. R.S.O. 1970, c. 91, s. 19 (2), *amended*.

(3) Where, in the case of a bond, debenture, bill, note, ^{Idem} mortgage, hypothec or similar obligation issued after June 18, 1971 by a person exempt from tax under section 149 of the *Income Tax Act* (Canada), a non-resident person not carrying on business in Canada, or a government, municipality or municipal or other public body performing a function of government,

- (a) the obligation was issued for an amount that is less than the principal amount thereof; and

(b) the yield from the obligation, expressed in terms of an annual rate on the amount for which the obligation was issued, which annual rate shall, if the terms of the obligation or any agreement relating thereto conferred upon the holder thereof a right to demand payment of the principal amount of the obligation or the amount outstanding as or on account of the principal amount thereof, as the case may be, before the maturity of the obligation, be calculated on the basis of the yield that produces the highest annual rate obtainable either on the maturity of the obligation or conditional upon the exercise of any such right, exceeds four-thirds of the interest stipulated to be payable on the obligation, expressed in terms of an annual rate on,

- (i) the principal amount thereof, if no amount is payable on account of the principal amount before the maturity of the obligation, or
- (ii) the amount outstanding from time to time as or on account of the principal amount thereof, in any other case,

the amount by which the principal amount of the obligation exceeds the amount for which the obligation was issued shall be included in computing the income of the corporation that is the first owner of the obligation that is a resident of Canada and is not a corporation exempt from tax under section 149 of the *Income Tax Act* (Canada) or a government, for the fiscal year of the owner of the obligation in which it became the owner thereof. *New.*

1970-71,
c. 63 (Can.)

Application
of subs. 1

(4) Subsection 1 does not apply to any amount received by a corporation in a fiscal year,

- (a) as an annuity payment;
- (b) as a refund of premiums or contributions paid by the holder of a life annuity contract, as defined by regulation, upon the death of such holder; or
- (c) in satisfaction of the rights of the corporation under a life annuity contract, as defined by regulation, that was entered into before June 14, 1963 except to the extent that the amount so received, exceeds the aggregate of,
 - (i) the value of its rights under the contract on the second anniversary date of the contract to occur after October 22, 1968, and

- (ii) the aggregate of premiums paid by the corporation under the contract after the said second anniversary date. R.S.O. 1970, c. 91, s. 19 (5).

(5) Subsection 1 does not apply in any case where sub-^{Idem} section 2 or 3 applies. R.S.O. 1970, c. 91, s. 19 (4).

21.—(1) Where a corporation resident in Canada has loaned ^{Loan to non-resident person} money to a non-resident person and the loan has remained outstanding for one year or longer without interest at a reasonable rate having been included in computing the lender's income, interest thereon, computed at 5 per cent per annum for the fiscal year or part of the year during which the loan was outstanding, shall, for the purpose of computing the lender's income, be deemed to have been received by the lender on the last day of each fiscal year during all or part of which the loan has been outstanding.

(2) Subsection 1 does not apply if the loan was made to ^{Exception} a subsidiary controlled corporation and it is established that the money that was loaned was used in the subsidiary corporation's business for the purpose of gaining or producing income. R.S.O. 1970, c. 91, s. 30.

Deductions

22.—(1) In computing the income of a corporation from a ^{General limitations} business or property no deduction shall be made in respect of,

- (a) an outlay or expense except to the extent that it was ^{General limitation} made or incurred by the corporation for the purpose of gaining or producing income from the business or property;
- (b) an outlay, loss or replacement of capital, a payment ^{Capital outlay or loss} on account of capital or an allowance in respect of depreciation, obsolescence or depletion except as expressly permitted by this Part;
- (c) an outlay or expense to the extent that it may ^{Limitation re exempt income} reasonably be regarded as having been made or incurred for the purpose of gaining or producing exempt income or in connection with property the income from which would be exempt;
- (d) the annual value of property except rent for prop- ^{Annual value of property} erty leased by the corporation for use in its business;

Reserves, etc.	(e) an amount transferred or credited to a reserve, contingent account or sinking fund except as expressly permitted by this Part;
Payments on discounted bonds	(f) an amount paid or payable as or on account of the principal amount of any obligation described in clause <i>f</i> of subsection 1 of section 24 except as expressly permitted by that clause;
Payments on income bonds	(g) an amount paid by a corporation as interest or otherwise to holders of its income bonds or income debentures unless the bonds or debentures have been issued or the income provisions thereof have been adopted since 1930, <ul style="list-style-type: none"> (i) to afford relief to the debtor from financial difficulties, and (ii) in place of or as an amendment to bonds or debentures that at the end of 1930 provided unconditionally for a fixed rate of interest;
Limitation re employer's contribution under supple- mentary unemploy- ment benefit plan	(h) an amount paid by a corporation to a trustee under a supplementary unemployment benefit plan except as expressly permitted by section 119;
Limitation re employer's contribution under deferred profit sharing plan	(i) an amount paid by a corporation to a trustee under a deferred profit sharing plan except as expressly permitted by section 120;
Limitations re employer's contribution under profit sharing plan	(j) an amount paid by a corporation to a trustee under a profit sharing plan that is not, <ul style="list-style-type: none"> (i) an employees profit sharing plan, (ii) a deferred profit sharing plan, or (iii) a registered pension fund or plan; or
Use of recreational facilities and club dues	(k) an outlay or expense made or incurred by the corporation after 1971, <ul style="list-style-type: none"> (i) for the use or maintenance of property that is a yacht, a camp, a lodge or a golf course or facility, unless the corporation made or incurred the outlay or expense in the ordinary course of its business of providing the property for hire or reward, or (ii) as membership fees or dues, whether initiation fees or otherwise, in any club the main purpose of which is to provide dining, recreational or sporting facilities for its members.

(*l*) the amount of a management or administration ^{Management fee} fee or charge paid or credited, or deemed to be paid or credited, to a non-resident person to the extent that such amount is subjected to taxation under paragraph *a* of subsection 1 of section 212 of the *Income Tax Act* (Canada); 1970-71,
c. 63 (Can.)

(*m*) where a corporation has agreed to sell or issue ^{Special Provision} shares of the capital stock of the corporation or of a corporation with which it does not deal at arm's length to an employee of the corporation or of a corporation with which it does not deal at arm's length, the income for a fiscal year of the corporation or of a corporation with which it does not deal at arm's length shall be deemed to be not less than its income for the fiscal year would have been if a benefit had not been conferred on the employee by the sale or issue of the shares to him or to a person in whom his rights under the agreement have become vested. R.S.O. 1970, c. 91, s. 24.

(2) Notwithstanding clause *c* of subsection 1 of section 24, ^{Limitation re certain interest and property taxes on land} in computing the income of the corporation for a fiscal year from a business or property, no deduction shall be made in respect of any amount paid or payable by the corporation in the year and after 1971 as, on account or in lieu of payment of, or in satisfaction of,

- (*a*) interest on borrowed money used to acquire land, or on an amount payable by the corporation for land; or
- (*b*) property taxes, not including income or profits taxes or taxes computed by reference to the transfer of property, paid or payable by the corporation in respect of land to a province or a Canadian municipality,

if, having regard to all the circumstances, including the cost to the corporation of the land in relation to its gross revenue, if any, therefrom for that or any previous year, the land cannot reasonably be considered to have been, in that year,

- (*c*) included in the inventory of a business carried on by the corporation;
- (*d*) otherwise used in, or held in the course of, carrying on a business carried on by the corporation; or

- (e) held primarily for the purpose of gaining or producing income of the corporation from the land for that year,

except to the extent that the corporation's gross revenue, if any, from the land for that year exceeds the aggregate of all other amounts deducted in computing its income from the land for that year.

Meaning of
"land" in
subs. 2

- (3) In subsection 2, "land" does not include,

- (a) any property that is a building or other depreciable property affixed to land;
- (b) the land subjacent to any property described in clause *a*; or
- (c) such land immediately contiguous to the land described in clause *b* as may reasonably be considered to be used in connection with any property described in clause *a*.

Limitation re
deduction of
interest by
certain
corporations

- (4) Notwithstanding any other provision of this Act, in computing the income for a fiscal year of a corporation resident in Canada from a business or property, no deduction shall be made in respect of that proportion of any amount otherwise deductible in computing its income for the year in respect of interest paid or payable by it on outstanding debts to specified non-residents that,

- (a) the amount, if any, by which,

- (i) the greatest amount that the corporation's outstanding debts to specified non-residents was at any time in the year,

exceeds,

- (ii) three times the aggregate of,

- (A) the corporation's paid-up capital limit within the meaning of subsection 1 of section 83 at the commencement of the year,

- (B) the amount that the corporation's designated surplus would be immediately after the commencement of the year, if control of the corporation, within the meaning of Part VII of

the *Income Tax Act* (Canada), had been acquired by another corporation at that time, ^{1970-71, c. 63 (Can.)}

(C) the corporation's tax-paid undistributed surplus on hand at the commencement of the year,

(D) the corporation's 1971 capital surplus on hand at the commencement of the year, and

(E) the corporation's capital dividend account, within the meaning of subsection 1 of section 83 immediately after the commencement of the year,

is of,

(b) the amount determined under subclause i of clause *a* in respect of the corporation for the year. R.S.O. 1970, c. 91, s. 22.

(5) In subsection 4, "outstanding debts to specified non-residents" of a corporation at any particular time in a fiscal year means the aggregate of amounts each of which is an amount outstanding at that time as or on account of a debt or other obligation to pay an amount, ^{Meaning of certain expressions in subs. 4}

(a) that was payable by the corporation to a person who was, at any time in the year,

(i) a shareholder of the corporation who, either alone or together with persons with whom the shareholder was not dealing at arm's length, owned 25 per cent or more of the issued shares of any class of the corporation and who was,

(A) a person not resident in Canada, or

(B) a non-resident-owned investment corporation, or

(ii) a person described in sub-subclause A or B of subclause i who was not dealing at arm's length with a shareholder described in subclause i, and

(b) on which any amount in respect of interest paid or payable by the corporation is or would be, but

for subsection 4, deductible in computing the corporation's income for the year.

Loan made
on condition

(6) Where any loan is made by a person, in this subsection referred to as the "first lender", to another person on condition that a loan be made by any person, in this subsection referred to as the "subsequent lender", to a corporation to which the provisions of subsection 1 of section 2 apply, for the purposes of subsections 4 and 5 the lesser of,

- (a) the amount of the loan so made by the first lender to the other person; and
- (b) the amount of the loan so made by the subsequent lender to the corporation,

shall be deemed to be a debt incurred by the corporation to the first lender.

Limitation on
application
of s. 25 where
subs. 4
applicable

(7) Where,

- (a) section 25 is applicable in respect of an amount or a part of an amount specified by a corporation resident in Canada in its election under that section that, but for that section, would have been deductible in computing its income for a fiscal year;
- (b) a portion of the amount or of the part of the amount described in clause *a* may reasonably be considered to be an amount that, but for section 25, would have been deductible in computing the income of the corporation for the year in respect of interest paid or payable by it on outstanding debts to specified non-residents; and
- (c) subsection 4 is or would be, if this Act were read without reference to section 25, applicable in computing the income of the corporation for the year,

notwithstanding section 25, that proportion of the portion described in clause *b* that, but for this subsection, would,

- (d) be added by virtue of section 25 to the capital cost to the corporation of depreciable property acquired by it; or
- (e) be deemed by section 25 to be exploration, prospecting and development expenses incurred by it in the year,

as the case may be, that the amount determined under clause *a* of subsection 4 in respect of the corporation for the year is of the amount determined under clause *b* of subsection 4 in respect of the corporation for the year shall not be so added or be so deemed, as the case may be. *New.*

23. In computing income, no deductions shall be made in respect of an otherwise deductible outlay or expense of a corporation for advertising space in an issue of a non-Canadian newspaper or periodical dated after the 31st day of December, 1965, for an advertisement directed primarily to a market in Canada if such outlay or expense is not deductible in computing its income under Part I of the *Income Tax Act* (Canada) pursuant to section 19 of that Act. R.S.O. 1970, c. 91, s. 24 (3), *amended*. Limitation
re advertising
expense
1970-71,
c. 63 (Can.)

24.—(1) Notwithstanding clauses *a* and *b* of subsection 1 of section 22, in computing a corporation's income for a fiscal year from a business or property, there may be deducted such of the following amounts as are wholly applicable to that source or such part of the following amounts as may reasonably be regarded as applicable thereto, Deductions
permitted
in computing
income from
business or
property

- (a) such part of the capital cost to the corporation of property, or such amount in respect of the capital cost to the corporation of property, if any, as is allowed by regulation; Capital cost
of property
- (b) such amount as the corporation may claim in respect of any business, not exceeding 10 per cent of its cumulative eligible capital in respect of the business at the end of the year; Cumulative
eligible
capital
amount
- (c) an amount paid in the year or payable in respect of the fiscal year, depending upon the method regularly followed by the corporation in computing its income, pursuant to a legal obligation to pay interest on, Interest
 - (i) borrowed money used for the purpose of earning income from a business or property, other than borrowed money used to acquire property the income from which would be exempt or to acquire a life insurance policy,
 - (ii) an amount payable for property acquired for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, other than property the income from which would be exempt or property that is an interest in a life insurance policy, or

(iii) subject to the approval of the Minister, an amount paid to the corporation under,

(A) an *Appropriation Act* (Canada) for the purpose of advancing or sustaining the technological capability of Canadian manufacturing or other industry, or

(B) the *Northern Mineral Exploration Assistance Regulations* made under an *Appropriation Act* (Canada),

or a reasonable amount in respect thereof, whichever is the lesser;

Compound
interest

(d) an amount paid in the fiscal year pursuant to a legal obligation to pay interest on an amount that would be deductible under clause *c* if it were paid in the fiscal year or payable in respect of the fiscal year;

Expense of
issuing
shares or
borrowing
money

(e) an expense incurred in the fiscal year,

(i) in the course of issuing or selling shares of the capital stock of the corporation, or

(ii) in the course of borrowing money used by the corporation for the purpose of earning income from a business or property, other than money used by the corporation for the purpose of acquiring property the income from which would be exempt,

but not including any amount in respect of,

(iii) a commission or bonus paid or payable to a person to whom the shares were issued or sold or from whom the money was borrowed, or for or on account of services rendered by a person as a salesman, agent or dealer in securities in the course of issuing or selling the shares or borrowing the money, or

(iv) an amount paid or payable as or on account of the principal amount of the indebtedness incurred in the course of borrowing the money, or as or on account of interest;

Discount
on certain
obligations

(f) an amount paid in the year in satisfaction of the principal amount of any bond, debenture, bill, note, mortgage, hypothec or similar obligation issued by

the corporation after June 18, 1971 on which interest was stipulated to be payable, to the extent that the amount so paid does not exceed,

- (i) in any case where the obligation was issued for an amount not less than 97 per cent of the principal amount thereof, and the yield from the obligation, expressed in terms of an annual rate on the amount for which the obligation was issued, which annual rate shall, if the terms of the obligation or any agreement relating thereto conferred upon the holder thereof a right to demand payment of the principal amount of the obligation or the amount outstanding as or on account of the principal amount thereof, as the case may be, before the maturity of the obligation, be calculated on the basis of the yield that produces the highest annual rate obtainable either on the maturity of the obligation or conditional upon the exercise of any such right, does not exceed four-thirds of the interest stipulated to be payable on the obligation, expressed in terms of an annual rate on,

- (A) the principal amount thereof, if no amount is payable on account of the principal amount before the maturity of the obligation, or

- (B) the amount outstanding from time to time as or on account of the principal amount thereof, in any other case,

the amount by which the lesser of the principal amount of the obligation and the amount so paid in satisfaction of the principal amount thereof exceeds the amount for which the obligation was issued, and

- (ii) in any other case, one-half of the amount by which the lesser of the principal amount of the obligation and the amount so paid in satisfaction of the principal amount thereof exceeds the amount for which the obligation was issued;

- (g) an amount payable in the year as a fee for services rendered by a person as a registrar of or agent for the transfer of shares of the capital stock of the ^{Share transfer and other fees}

corporation or as an agent for the remittance to shareholders of the corporation of dividends declared by it;

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| Idem | (h) an amount payable in the year as a fee to a stock exchange for the listing of shares of the capital stock of the corporation; |
| Idem | (i) an expense incurred in the year in the course of printing and issuing a financial report to shareholders of the corporation or to any other person entitled by law to receive such report; |
| Certification
fee paid to
bank

R.S.C. 1970,
c. B-1 | (j) an amount payable by the corporation in the year as a fee to a bank to which the <i>Bank Act</i> (Canada) or the <i>Quebec Savings Banks Act</i> applies for the certification of a non-interest-bearing post-dated bill drawn by the corporation on the bank and payable not more than 90 days from the date of the certification; |
| Sale of
bill | (k) where a bill described in clause <i>j</i> that was drawn by the corporation has been sold by the corporation in the fiscal year, the amount, if any, by which the principal amount of the bill exceeds the consideration paid by the purchaser to the corporation for the bill so sold; |
| Repayment
of loan by
shareholder | (l) such part of any loan repaid by the corporation in the fiscal year as was by subsection 2 of section 19 required to be included in computing the income of the corporation for a previous year, except to the extent that the amount of the loan was deductible from the corporation's income for the purpose of computing its taxable income for that previous year, if it is established by subsequent events or otherwise that the repayment was not made as part of a series of loans and repayments; |
| Combined
income and
capital | (m) such part of a payment,

(i) repaying borrowed money used for the purpose of earning income from a business or property, other than borrowed money used to acquire property the income from which would be exempt, or

(ii) for property acquired for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from |

a business, other than property the income from which would be exempt,

made by the corporation in the fiscal year as is by subsection 1 of section 20 required to be included in computing the recipient's income for a fiscal year;

- (n) a reasonable amount as a reserve for, Reserve for doubtful debts
 - (i) doubtful debts that have been included in computing the income of the corporation for that fiscal year or a previous fiscal year, and
 - (ii) doubtful debts arising from loans made in the ordinary course of business by a corporation part of whose ordinary business was the lending of money;
- (o) subject to subsection 7, where amounts described in clause *a* of subsection 1 of section 16 have been included in computing the corporation's income from a business for the fiscal year or a previous fiscal year, a reasonable amount as a reserve in respect of, Reserve in respect of certain goods and services
 - (i) goods that it is reasonably anticipated will have to be delivered after the end the year,
 - (ii) services that it is reasonably anticipated will have to be rendered after the end of the year,
 - (iii) periods for which rent or other amounts for the possession or use of land or chattels have been paid in advance, or
 - (iv) repayments under arrangements or understandings of the class described in subclause ii of clause *a* of subsection 1 of section 16 that it is reasonably anticipated will have to be made after the end of the year on the return or resale to the corporation of articles other than bottles;
- (p) where an amount has been included in computing the corporation's income from the business for the fiscal year or for a previous fiscal year in respect of property sold in the course of the business and that amount or a part thereof is not receivable, Reserve for amount not receivable until later year
 - (i) where the property sold is property other than land, until a day that is,

(A) more than two years after the day on which the property was sold,

and

(B) after the end of the fiscal year, or

(ii) where the property sold is land, until a day that is after the end of the fiscal year,

a reasonable amount as a reserve in respect of such part of the amount so included in computing the income as may reasonably be regarded as a portion of the profit from the sale;

Reserve for
quadrennial
survey

R.S.C. 1970,
c. S-9

(q) such amount as may be prescribed as a reserve for expenses to be incurred by the corporation by reason of quadrennial or other special surveys required under the *Canada Shipping Act*, or the regulations thereunder, or under the rules of any society or association for the classification and registry of shipping approved by the Minister of Transport for the purposes of the *Canada Shipping Act*;

Bad debts

(r) the aggregate of debts owing to the corporation,
(i) that are established by the corporation to have become bad debts in the fiscal year, and

(ii) that have, except in the case of debts arising from loans made in the ordinary course of business by a corporation part of whose ordinary business was the lending of money, been included in computing the income of the corporation for the fiscal year or a previous fiscal year;

Employer's
contribution
to pension
fund

(s) an amount paid by the corporation in the fiscal year or within 120 days from the end of the fiscal year to or under a registered pension fund or plan in respect of services rendered by employees of the corporation in the fiscal year, subject, however, as follows:

(i) in any case where the amount so paid is the aggregate of amounts each of which is identifiable as a specified amount in respect of an individual employee of the corporation, the amount deductible under this clause in respect of any one such individual employee is the lesser of the amount so specified in respect of that employee and \$2,500, and

- (ii) in any other case, the amount deductible under this clause is the lesser of the amount so paid and an amount determined in prescribed manner, not exceeding, however, \$2,500 multiplied by the number of employees of the corporation in respect of whom the amount so paid by the corporation was paid by it,

plus such amount as may be deducted as a special payment under clause *u*;

- (*t*) where a registered pension fund or plan contains ^{Idem} a provision under which the corporation may provide superannuation or pension benefits for an employee or former employee of the corporation by making a lump sum payment to or under the fund or plan in the fiscal year in which the employee or former employee,

- (i) becomes eligible to retire,
- (ii) retires or otherwise ceases to be employed by the corporation, or
- (iii) reaches an age at which the superannuation or pension benefits so provided for become payable or commence to be payable to him,

an amount paid by the corporation in the fiscal year or within 60 days from the end of the fiscal year pursuant thereto as the lump sum in respect of an employee or former employee who, in the fiscal year, became eligible to retire, retired or otherwise ceased to be employed by the corporation or reached the age referred to in subclause iii, except to the extent that it is deductible under clause *s*;

- (*u*) where the corporation is an employer, the amount ^{Employer's special contribution} of a special payment made by it in the fiscal year on account of an employees' superannuation or pension fund or plan in respect of past services of employees pursuant to a recommendation by a qualified actuary in whose opinion the resources of the fund or plan were required to be augmented by an amount not less than the amount of the special payment to ensure that all the obligations of the fund or plan to the employees may be discharged in full, if the payment was made so that it is irrevocably vested in or for the fund or plan and the payment has been

approved by the Minister, and for greater certainty and without restricting the generality of this clause, it is hereby declared that this clause is applicable where the resources of a fund or plan were required to be augmented by reason of an increase in the superannuation or pension benefits payable out of or under the fund or plan;

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| Scientific research | (v) such amount in respect of expenditures on scientific research as is permitted by section 39; |
| Patronage dividends | (w) such amounts in respect of payments made by the corporation pursuant to allocations in proportion to patronage as are permitted by section 112; |
| Mining taxes | (x) such amount as is allowed by regulation in respect of taxes on income for the fiscal year from mining operations; |
| Employer's contribution under profit sharing plan | (y) an amount paid by a corporation to a trustee in trust for employees of such corporation or of a corporation with which such corporation does not deal at arm's length, under an employees profit sharing plan as permitted by section 118; |
| Employer's contribution under registered supplementary unemployment benefit plan | (z) an amount paid by the corporation to a trustee under a registered supplementary unemployment benefit plan as permitted by section 119; |
| Employer's contribution under deferred profit sharing plan | (aa) an amount paid by the corporation to a trustee under a deferred profit sharing plan as permitted by subsection 5 of section 120; |
| Cancellation of lease | (bb) an amount that would not otherwise be deductible, paid by the corporation in the fiscal year to a person with whom it was dealing at arm's length for the cancellation of a lease of property of the corporation leased by it to that person; |
| Landscaping of grounds | (cc) an amount paid by the corporation in the fiscal year for the landscaping of grounds around a building or other structure of the corporation that is used by it primarily for the purpose of gaining or producing income therefrom or from a business; |
| One-half fees paid to investment counsel | (dd) an amount equal to one-half of the fee paid by the corporation in the fiscal year to a person for advice as to the advisability of purchasing or selling a specific share or security, if that person's principal business is advising others as to the advisability of purchasing or selling specific shares or securities; |

(ee) an amount paid by the corporation in the fiscal year ^{Expenses of representation} as or on account of expenses incurred by it in making any representation relating to a business carried on by it,

(i) to the government of a country, province or state or to a municipal or public body performing a function of government in Canada, or

(ii) to an agency of a government or of a municipal or public body referred to in sub-clause i that had authority to make rules, regulations or by-laws relating to the business carried on by the corporation,

including any representation for the purpose of obtaining a licence, permit, franchise or trade mark relating to the business carried on by the corporation;

(ff) an amount paid by the corporation in the fiscal year ^{Investigation of site} for investigating the suitability of a site for a building or other structure planned by the corporation for use in connection with a business carried on by the corporation; and

(gg) an amount paid by the corporation in the fiscal year ^{Utilities service connection} to a person, other than a person with whom the corporation was not dealing at arm's length, for the purpose of making a service connection to its place of business for the supply, by means of wires, pipe or conduits, of electricity, gas, telephone service, water or sewers supplied by such person, to the extent that the amount so paid was not paid,

(i) to acquire property of the corporation, or

(ii) as consideration for the goods or services for the supply of which the service connection was undertaken or made. R.S.O. 1970, c. 91, s. 23, *amended*.

(2) No corporation shall sell, pledge, assign or in any way ^{Disposal of security where reserve re sale of property} dispose of any security received by it as payment in whole or in part for any property sold by it, where the corporation has set up a reserve in respect of the sale of the property under this section unless the corporation has provided the Minister, in writing, with the names of the purchaser, pledgee or assignee and with the amount of cash to be received by the corporation for the security and has obtained the written consent of the Minister with respect to such transaction. R.S.O. 1970, c. 91, s. 61 (9).

Borrowed
money

(3) For the purposes of clause *c* of subsection 1, where a corporation has borrowed money in consideration of its promise to pay a larger amount and to pay interest on the larger amount,

(a) the larger amount shall be deemed to be the amount borrowed; and

(b) where the amount actually borrowed has been used in whole or in part for the purpose of earning income from a business or property, the proportion of the larger amount that the amount actually so used is of the amount actually borrowed shall be deemed to be the amount so used. R.S.O. 1970, c. 91, s. 23 (6).

Idem

(4) For greater certainty, it is hereby declared that where a corporation has borrowed money,

(a) to repay money previously borrowed; or

(b) to pay an amount payable for property described in subclause ii of clause *c* of subsection 1 previously acquired,

the borrowed money shall, for the purposes of section 25 and clause *c* or *m* of subsection 1, be deemed to have been used for the purpose for which the money previously borrowed was used or was deemed by this subsection to have been used, or to acquire the property in respect of which the said amount was so payable, as the case may be. R.S.O. 1970, c. 91, s. 23 (7).

Uncol-
lectable
portion of
proceeds
of dis-
position
of
depreciable
property

(5) Where an amount that is owing to a corporation as or on account of the proceeds of disposition of depreciable property of the corporation of a prescribed class is established by it to have become a bad debt in a fiscal year, there may be deducted in computing the income of the corporation for the fiscal year, the lesser of,

(a) the amount so owing to the corporation; and

(b) the amount, if any, by which the capital cost to the corporation of that property exceeds the aggregate of the amounts, if any, realized by it on account of the proceeds of disposition. R.S.O. 1970, c. 91, s. 23 (14).

Sale of
agreement
for sale of
mortgage
included
in proceeds
of disposition

(6) Where depreciable property of a corporation has, in a fiscal year, been disposed of to a person with whom the corporation was dealing at arm's length, and the proceeds of disposition include an agreement for sale of or mortgage or hypothec on land that the corporation has, in a subsequent fiscal year, sold to a person with whom it was dealing at

arm's length, there may be deducted in computing the income of the corporation for the subsequent fiscal year an amount equal to the lesser of,

- (a) the amount, if any, by which the principal amount of the agreement for sale, mortgage or hypothec outstanding at the time of the sale exceeds the consideration paid by the purchaser to the corporation for the agreement for sale, mortgage or hypothec; and
- (b) the amount determined under clause *a* less the amount, if any, by which the proceeds of disposition of the depreciable property exceed the capital cost to the corporation of that property. R.S.O. 1970, c. 91, s. 23 (15).

(7) Where an amount is deductible in computing income ^{Special reserves} for a fiscal year under clause *o* of subsection 1 as a reserve in respect of,

- (a) articles of food or drink that it is reasonably anticipated will have to be delivered after the end of the year; or
- (b) transportation that it is reasonably anticipated will have to be provided after the end of the year,

there shall be substituted for the amount determined thereunder an amount not exceeding the aggregate of amounts included in computing the corporation's income from the business for the year that were received or receivable, depending on the method regularly followed by the corporation in computing its profit, in the year in respect of,

- (c) articles of food or drink not delivered before the end of the year; or
- (d) transportation not provided before the end of the year,

as the case may be. R.S.O. 1970, c. 91, s. 61 (3).

(8) Clause *o* of subsection 1 does not apply to allow a ^{Exception} deduction,

- (a) as a reserve in respect of guarantees, indemnities or warranties;
- (b) in computing the income of a corporation for a fiscal year from a business in any case where the corpora-

tion's income for the fiscal year from that business is computed in accordance with the method authorized by subsection 1 of section 31; or

- (c) as a reserve in respect of insurance, except that an insurance corporation shall, in computing its income for a fiscal year from an insurance business, other than a life insurance business, carried on by it, deduct as policy reserves such amounts as are prescribed for the purposes of this clause. R.S.O. 1970, c. 91, s. 61 (4).

No deduction
in respect of
property
in certain
circum-
stances

(9) Clause *p* of subsection 1 does not apply to allow a deduction in computing the income of a corporation for a fiscal year from a business in respect of property sold in the course of the business where the corporation ceases to have a permanent establishment in Canada or becomes exempt from tax under any provision of this Part at any time in the fiscal year or in the immediately following fiscal year. R.S.O. 1970, c. 91, s. 61 (7).

Application
of subs.
1 (*ee*)

(10) In lieu of making any deduction of an amount permitted by clause *ee* of subsection 1 in computing its income for a fiscal year from a business a corporation may, if it so elects in prescribed manner, make a deduction of one-tenth of that amount in computing its income for that fiscal year and a like deduction in computing its income for each of the immediately following fiscal years. R.S.O. 1970, c. 91, s. 23 (17).

Foreign
state
income
taxes

(11) In computing the income of a corporation for a fiscal year from a business carried on by the corporation in a country other than Canada, there may be deducted the amount, if any, of any income or profits taxes paid to the government of a state, province or other political subdivision of that country to the extent that such taxes,

- (a) were deductible under the laws of that country in computing the amount for the year on which the corporation is liable to pay income or profits tax imposed by the government of that country; and

- (b) may reasonably be regarded as having been paid in respect of the income of the corporation for the fiscal year from that business. *New.*

Accrued
bond
interest

(12) Where, by virtue of an assignment or other transfer of a bond, debenture or similar security, other than an income bond or an income debenture, including for greater certainty an assignment or other transfer after June 18, 1971 of a bill, note, mortgage, hypothec or similar obligation, the transferee

has become entitled to interest in respect of a period commencing before the time of transfer and ending after that time that is not payable until after the time of transfer, an amount equal to that proportion of the interest that the number of days in the portion of the period that preceded the day of transfer is of the number of days in the whole period,

- (a) shall be included in computing the income of the transferor for the fiscal year in which the transfer was made; and
- (b) may be deducted in computing the income of the transferee for a fiscal year in the computation of which there has been included,
 - (i) the full amount of the interest under section 16, or
 - (ii) a portion of the interest under clause *a*. R.S.O. 1970, c. 91, s. 31.

25.—(1) Where in a fiscal year a corporation has acquired property in respect of which the corporation is entitled to a deduction under regulations made under clause *a* of subsection 1 of section 24 in computing its income for that fiscal year, in this section referred to as “depreciable property”, if the corporation so elects in prescribed manner on or before the day on or before which the corporation is required by section 145 to file its return for the fiscal year,

- (a) in computing the corporation’s income for the fiscal year and for such of the three immediately preceding fiscal years as the corporation had, if any, clauses *c*, *d* and *e* of subsection 1 of section 24 do not apply to the amount or to the part of the amount specified by the corporation in its election that, but for this subsection, would have been deductible in computing the corporation’s income, other than exempt income, for the fiscal year and for those immediately preceding fiscal years, if any, by virtue of those clauses in respect of borrowed money used to acquire the depreciable property or the amount payable for the depreciable property acquired by it; and
- (b) the amount or part of the amount, as the case may be, described in clause *a* shall be added to the capital cost to it of the depreciable property so acquired by it. R.S.O. 1970, c. 91, s. 68 (1).

(2) Where in a fiscal year a corporation has used borrowed money for the purpose of exploration, prospecting or development

ment, and the expenses incurred by the corporation in respect of exploration, prospecting and development are deductible in computing its income for the fiscal year by virtue of section 63 or would be so deductible by virtue of that section if the corporation had sufficient income for that fiscal year to permit the deduction, if the corporation so elects in prescribed manner on or before the day on or before which the corporation is required by section 145 to file its return for the fiscal year,

- (a) in computing its income for the fiscal year and for such of the three immediately preceding fiscal years as the corporation had, if any, clauses *c*, *d* and *e* of subsection 1 of section 24 do not apply to the amount or to the part of the amount specified by it in its election that, but for this subsection, would have been deductible in computing the corporation's income, other than exempt income, for the fiscal year and for those immediately preceding fiscal years, if any, by virtue of those clauses in respect of borrowed money used for exploration, prospecting and development; and
- (b) the amount or the part of the amount, as the case may be, described in clause *a* shall be deemed to be exploration, prospecting and development expenses incurred by the corporation in the fiscal year. R.S.O. 1970, c. 91, s. 68 (2).

Idem

(3) In computing the income of the corporation for a fiscal year, where the corporation,

- (a) in any preceding fiscal year made an election under subsection 1 in respect of borrowed money used to acquire depreciable property or an amount payable for depreciable property acquired by it; and
- (b) in each fiscal year, if any, after that preceding fiscal year and before the fiscal year, made an election under this subsection covering the total amount that, but for this subsection, would have been deductible in computing the corporation's income, other than exempt income, for each such year by virtue of clauses *c*, *d* and *e* of subsection 1 of section 24 in respect of the borrowed money used to acquire the depreciable property or the amount payable for the depreciable property acquired by it,

if it so elects in prescribed manner on or before the day on or before which it is required by section 145 to file its return for the fiscal year, clauses *c*, *d* and *e* of subsection 1

of section 24 do not apply to the amount or to the part of the amount specified by it in its election that, but for this subsection, would have been deductible in computing the corporation's income, other than exempt income, for the fiscal year by virtue of those clauses in respect of the borrowed money used to acquire the depreciable property or the amount payable for the depreciable property acquired by it, and the said amount or part of the amount, as the case may be, shall be added to the capital cost to it of the depreciable property so acquired by it. R.S.O. 1970, c. 91, s. 68 (3).

(4) In computing the income of a corporation for a fiscal ^{Idem} year, where the corporation,

- (a) in any preceding fiscal year made an election under subsection 2 in respect of borrowed money used for the purpose of exploration, prospecting or development; and
- (b) in each fiscal year, if any, after that preceding year and before the fiscal year, made an election under this subsection covering the total amount that, but for this subsection, would have been deductible in computing its income, other than exempt income, for each such year by virtue of clauses *c*, *d* and *e* of subsection 1 of section 24 in respect of the borrowed money used for the exploration, prospecting and development,

if the corporation so elects in prescribed manner on or before the day on or before which it is required by section 145 to file its return for the fiscal year, clauses *c*, *d* and *e* of subsection 1 of section 24 do not apply to the amount or to the part of the amount specified by it in its election that, but for this subsection, would have been deductible in computing the corporation's income, other than exempt income, for the fiscal year by virtue of those clauses in respect of the borrowed money used for the exploration, prospecting and development, and the said amount or part of the amount, as the case may be, shall be deemed to be exploration, prospecting and development expenses incurred by the corporation in that year. R.S.O. 1970, c. 91, s. 68 (4).

(5) Notwithstanding any other provision of this Act, where ^{Reassessments} a corporation has made an election in accordance with the provisions of subsection 1 or 2, such reassessments of tax, interest or penalties shall be made as are necessary to give effect thereto. R.S.O. 1970, c. 91, s. 68 (5).

Ceasing to Carry on Business

Sale of
accounts
receivable

26.—(1) Where a person who has been carrying on a business has, in a fiscal year, sold all or substantially all the property used in carrying on the business, including the debts that have been or will be included in computing his income for that fiscal year or a previous fiscal year and that are still outstanding, and including the debts arising from loans made in the ordinary course of his business if part of his ordinary business was the lending of money and that are still outstanding, to a purchaser who proposes to continue the business which the vendor has been carrying on, if the vendor and the purchaser have executed jointly an election in prescribed form to have this section apply, the following rules are applicable,

- (a) there may be deducted in computing the vendor's income for the fiscal year an amount equal to the difference between the face value of the debts so sold, other than debts in respect of which the vendor has made deductions under clause *r* of subsection 1 of section 24, and the consideration paid by the purchaser to the vendor for the debts so sold;
- (b) an amount equal to the difference described in clause *a* shall be included in computing the purchaser's income for the fiscal year;
- (c) the debts so sold shall be deemed, for the purposes of clauses *n* and *r* of subsection 1 of section 24 to have been included in computing the purchaser's income for the fiscal year or a previous fiscal year but no deduction may be made by the purchaser under clause *r* of subsection 1 of section 24 in respect of a debt in respect of which the vendor has previously made a deduction; and
- (d) each amount deducted by the vendor in computing income for a previous fiscal year under clause *r* of subsection 1 of section 24 in respect of any of the debts so sold shall be deemed, for the purpose of clause *i* of subsection 1 of section 16, to have been so deducted by the purchaser. R.S.O. 1970, c. 91, s. 62 (1).

Statement
by vendor
and
purchaser

(2) An election executed for the purposes of subsection 1 shall contain a statement by the vendor and the purchaser jointly as to the consideration paid for the debts sold by the vendor to the purchaser and that statement shall, as against the Minister, be binding upon the vendor and the purchaser

in so far as it may be relevant in respect of any matter arising under this Act. R.S.O. 1970, c. 91, s. 62 (2), *amended*.

27.—(1) Where, upon or after disposing of or ceasing to carry on a business or a part of a business, a corporation has sold all or any part of the property that was included in the inventory of the business, the property so sold shall, for the purposes of this Part, be deemed to have been sold by the corporation in the course of carrying on the business. R.S.O. 1970, c. 91, s. 63 (1). Sale of inventory

(2) Where a person who has been carrying on a business has sold all or part of the property that was included in the inventory of the business, whether or not he has disposed of or ceased to carry on that business or a part of that business, to a person who has used all or part of the property so sold as inventory of a business carried on or to be carried on by the purchaser, and the amount of the consideration paid by the purchaser is, in part, consideration for the property so sold and, in part, consideration for something else, the following rules are applicable, Agreement as to price paid by vendor and purchaser

(a) such part of the consideration as the vendor and the purchaser have, in writing, agreed to be the price paid for the property so sold shall be deemed, both for the purpose of computing income from the business of the vendor and for the purpose of computing income from the business of the purchaser, to be the price so paid; and

(b) where an agreement as contemplated by clause *a* has not been filed with the Minister within sixty days after notice in writing by the Minister has been forwarded to the vendor and the purchaser that such an agreement is required for the purpose of any assessment of tax under this Act, such part of the consideration paid as is fixed by the Minister shall be deemed to be the price agreed upon by them as the price paid for the property so sold. R.S.O. 1970, c. 91, s. 63 (2).

(3) A reference in this section to property that was included in the inventory of a business shall be deemed to include a reference to property that would have been so included if the income from the business had not been computed in accordance with the method authorized by subsection 1 of section 31 or clause *d* of subsection 1 of section 36. R.S.O. 1970, c. 91, s. 63 (3). Reference to property included in inventory

Ceasing to
carry on
business

28.—(1) Notwithstanding clause *b* of subsection 1 of section 22, where a corporation has ceased to carry on a business, in computing the income of the corporation for its fiscal year in which it so ceased to carry on the business,

- (a) there shall be deducted the amount of its cumulative eligible capital in respect of the business at the time the corporation so ceased to carry on the business;
- (b) no amount is deductible by virtue of clause *b* of subsection 1 of section 24 in respect of the business; and
- (c) notwithstanding clause *a* of subsection 4 of section 18, its cumulative eligible capital in respect of the business immediately after the time the corporation so ceased to carry on the business shall be deemed to be nil.

Where
business
carried on
by controlled
corporation

(2) Where an individual has ceased to carry on a business and thereafter a corporation controlled directly or indirectly in any manner whatever by him, has carried on the business, in computing the cumulative eligible capital in respect of the business of the corporation at any time after the end of the fiscal year in which the individual so ceased to carry on the business, there shall be included the amount of the individual's cumulative eligible capital in respect thereof at the end of that fiscal year. *New.*

Special Cases

Banks

29.—(1) There shall be included in computing the income for a fiscal year of a bank, the amount by which the aggregate of the amounts that, at the end of the fiscal year, are set aside or reserved by way of write-down of the value of assets or appropriation to contingency reserves or contingent accounts for the purpose of meeting losses on loans, bad or doubtful debts, depreciation in the value of assets other than bank premises, or other contingencies, is, in the opinion of the Minister, having regard to all the circumstances, in excess of the reasonable requirements of the bank. R.S.O. 1970, c. 91, s. 21.

Idem

(2) Notwithstanding clauses *a* and *b* of subsection 1 of section 22, there may be deducted in computing the income for a fiscal year of a bank, such amount as is set aside or reserved for the fiscal year either by way of write-down of the value of assets or appropriation to any contingency reserve or contingent account for the purpose of meeting losses on loans, bad or doubtful debts, depreciation in the

value of assets other than bank premises, or other contingencies, and is, in the opinion of the Minister, having regard to all the circumstances, not in excess of the reasonable requirements of the bank. R.S.O. 1970, c. 91, s. 23 (8).

30.—(1) Where a corporation to which the exemptions provided by clause *b* of subsection 1 of section 122 and the specially reduced tax provided by subsection 1 of section 135 would otherwise apply is prescribed by regulation, such exemptions and specially reduced tax do not apply. R.S.O. 1970, c. 91, s. 59(1). Crown corporations

(2) Where land has been transferred to a corporation prescribed in the regulations for the purpose of disposition, the acquisition of the property by the corporation and any disposition thereof shall be deemed not to have been in the course of the business carried on by the corporation. R.S.O. 1970, c. 91, s. 59 (4). Transfers of land for disposition

31.—(1) For the purpose of computing the income of a corporation for a fiscal year from a farming business, the income from the business for that fiscal year may, if the corporation so elects under subsection 1 of section 28 of the *Income Tax Act* (Canada), be computed in accordance with a method, hereinafter in this section referred to as the “cash” method, whereby the income therefrom for that fiscal year shall be deemed to be an amount equal to, Farming business
1970-71,
c. 63 (Can.)

(a) the aggregate of all amounts that,

- (i) were received in the year, or are deemed by this Act to have been received in the year, in the course of carrying on the business, and
- (ii) were in payment of or on account of an amount that would, if the income from the business were not computed in accordance with the cash method, be included in computing income therefrom for that or any other year,

minus,

(b) the aggregate of all amounts that,

- (i) were paid in the year, or are deemed by this Act to have been paid in the year, in the course of carrying on the business, and
- (ii) were in payment of or on account of an amount that would, if the income from the business were not computed in accordance with the

cash method, be deductible in computing income therefrom for that or any other year,

any minus and deductions for the year permitted by clauses *a* and *b* of subsection 1 of section 24. R.S.O. 1970, c. 91, s. 64 (1) (*a*).

Idem

(2) Subsection 1 does not apply for the purpose of computing the income of a corporation for a fiscal year from a farming business carried on by it jointly with one or more other persons, unless each of the other persons by whom the business is jointly carried on has elected to have his income from the business for that year computed in accordance with the method authorized by that subsection. R.S.O. 1970, c. 91, s. 64 (2).

Concurrence of Minister

(3) Where a corporation has filed a return under Part V for a fiscal year wherein its income for that fiscal year from a farming business has been computed in accordance with the method authorized by subsection 1, income from the business for a subsequent fiscal year shall, subject to the other provisions of this Part, be computed in accordance with that method unless the corporation, with the concurrence of the Minister and upon such terms and conditions as are specified by the Minister, adopts some other method. R.S.O. 1970, c. 91, s. 64 (3).

Change in residence

(4) Where a corporation that, at a time when it was a resident of Canada, carried on a business the income from which was computed in accordance with the method authorized by subsection 1 has, upon or after disposing of or ceasing to carry on the business or a part of the business, ceased to be a resident of Canada in a fiscal year, an amount equal to the value, at the time it ceased to be a resident of Canada, of,

- (a) such part of the property that would have been included in the inventory of the business or the part of the business if the income from the business had not been computed in accordance with the method authorized by subsection 1 as remained the property of the corporation at the time it ceased to be a resident of Canada; and
- (b) such part of amounts outstanding at the time the corporation ceased to be a resident of Canada as or on account of debts owing to the corporation that arose in the course of carrying on the business as would have been included in computing its income for the fiscal year if the amounts had been received by it in the year at a time when it was a resident of Canada,

shall be included in computing its income for the fiscal year. R.S.O. 1970, c. 91, s. 64(4), *amended*.

(5) There shall be included in computing the income of a corporation for a fiscal year such part of an amount received by it in the year, upon or after disposing of or ceasing to carry on a business or a part of a business, for, on account or in lieu of payment of, or in satisfaction of debts owing to the corporation that arose in the course of carrying on the business as would have been included in computing the income of the corporation for the fiscal year had the amount so received been received by it in the course of carrying on the business. R.S.O. 1970, c. 91, s. 64 (5). Accounts receivable

32. Notwithstanding clauses *a* and *b* of subsection 1 of section 22, there may be deducted in computing a corporation's income for a fiscal year from a farming business any amount paid by it in the fiscal year for clearing land, levelling land or laying tile drainage for the purpose of carrying on the farming business. R.S.O. 1970, c. 91, s. 23 (16). Clearing land, levelling land and laying tile drainage

33.—(1) Where a corporation's chief source of income for a fiscal year is neither farming nor a combination of farming and some other source of income, for the purposes of sections 12 and 99 its loss, if any, for the fiscal year from all farming businesses carried on by it shall be deemed to be the lesser of, Loss from farming where chief source of income not farming

(a) the amount by which the aggregate of its losses for the fiscal year otherwise determined from all farming businesses carried on by it exceeds the aggregate of its incomes for the fiscal year from all such businesses; and

(b) \$2,500 plus the lesser of,

(i) one-half of the amount by which the amount determined under clause *a* exceeds \$2,500, and

(ii) \$2,500,

and for the purposes of this Act the amount, if any, by which the amount determined under clause *a* exceeds the amount determined under clause *b* is the corporation's "restricted farm loss" for the fiscal year. R.S.O. 1970, c. 91, s. 25 (1).

(2) For the purpose of this section, the Minister may determine that a corporation's chief source of income for a fiscal year is neither farming nor a combination of farming and some other source of income. R.S.O. 1970, c. 91, s. 25 (2). Determination by Minister

Insurance
agents
and brokers

34.—(1) Clause *o* of subsection 1 of section 24 does not apply to allow a deduction to an insurance agent or broker in respect of unearned commissions but a corporation may, in computing its income from a business as an insurance agent or broker for a fiscal year, deduct as a reserve in respect of unearned commissions an amount equal to the proportion of an amount that has been included in computing its income for the fiscal year or a previous fiscal year as a commission in respect of an insurance contract, other than a life insurance contract, that,

- (a) the number of days in that portion of the period provided for in the insurance contract that is after the end of the fiscal year,

is of,

- (b) the whole of that period. R.S.O. 1970, c. 91, s. 61 (5).

Reserve
to be
included

(2) There shall be included as income of a corporation for a fiscal year from a business as an insurance agent or broker, the amount deducted under subsection 1 in computing its income therefrom for the immediately preceding fiscal year. *New.*

Lending
of money
on security

35.—(1) In computing the income for a fiscal year of a corporation whose business includes the lending of money on the security of a mortgage, hypothec or agreement of sale of real property, there may be deducted as a reserve, in lieu of any deduction under clause *n* of subsection 1 of section 24, such amount as the corporation may claim not exceeding the lesser of,

- (a) $1\frac{1}{2}$ per cent of the aggregate of,

- (i) each amount outstanding at the end of the fiscal year as or on account of the principal amount of loans made by the corporation on the security of a mortgage, hypothec or agreement of sale of real property, or as or on account of the principal amount of any such mortgage, hypothec or agreement of sale purchased by it,
- (ii) each amount due and unpaid at the end of the fiscal year as or on account of interest payable to the corporation under a mortgage, hypothec or agreement of sale of real property, and

- (iii) each amount that has been taken into account in computing the income of the corporation for the fiscal year as or on account of the value of real property of the corporation that was included in the inventory of the corporation at the end of the fiscal year and that was acquired, by foreclosure or otherwise, after default made under a mortgage, hypothec or agreement of sale of real property, otherwise than as or on account of the value of real property in respect of which any amount for the fiscal year has been included under subclause i or ii; and

- (b) the amount, if any, deducted under this subsection as a reserve in computing the corporation's income for the immediately preceding fiscal year plus one-third of the amount determined under clause *a*,

but no deduction may be made under this subsection as a reserve in respect of loans made on the security of a mortgage or hypothec under the *National Housing Act* (Canada) or any of the Housing Acts as defined in section 2 of the *Central Mortgage and Housing Corporation Act* (Canada). R.S.O. 1970, c. 91, s. 65 (*a*). R.S.C. 1970,
cc. N-10, C-16

(2) There shall be included as income of a corporation for a fiscal year from a business described in subsection 1, the amount deducted under that subsection as a reserve in computing its income therefrom for the immediately preceding fiscal year. R.S.O. 1970, c. 91, s. 65 (*b*). Reserve
to be
included

36.—(1) In computing the income of a corporation for a fiscal year from a business that is a profession, the following rules apply, Professional
business

- (a) clause *b* of subsection 1 of section 16 and clause *o* of subsection 1 of section 24 are not applicable;
- (b) every amount that becomes receivable by it in the fiscal year in respect of property sold or services rendered in the course of the business shall be included;
- (c) for the purposes of clause *b*, an amount shall be deemed to have become receivable in respect of services rendered in the course of the business on the day that is the earliest of,
 - (i) the day upon which the account in respect of the services was rendered,

(ii) the day upon which the account in respect of those services would have been rendered had there been no undue delay in rendering the account in respect of the services, and

(iii) the day upon which the corporation was paid for the services; and

(d) where the corporation so elects in its return of income under Part I of the *Income Tax Act* (Canada) for the fiscal year, no amount shall be included in respect of work in progress at the end of the fiscal year, except as otherwise provided by this section.

1970-71,
c. 63 (Can.)

Application
of subs. 1 (d)
where
election
made

(2) Where a corporation has elected that clause d of subsection 1 be applicable in computing its income for a fiscal year from a business that is a profession, that clause shall apply in computing its income from the business for all subsequent fiscal years unless the corporation, with the concurrence of the Minister and upon such terms and conditions as are specified by the Minister, revokes its election to have that clause apply. *New.*

Prospectors
and
grub-
stakers

37.—(1) Where a share of the capital stock of a corporation,

(a) is received in a fiscal year,

(i) by a person who has, either under an arrangement with a prospector made before the prospecting, exploration or development work or as an employer of a prospector, advanced money for, or paid part or all of, the expenses of prospecting or exploring for minerals or of developing a property for minerals, and

(ii) as consideration for the disposition by the person referred to in subclause i to the corporation of a mining property or interest therein acquired under the arrangement under which the corporation made the advance or paid the expenses, or if the prospector was its employee, acquired by it through the employee's efforts,

the following rules apply,

(b) notwithstanding any other provision of this Act, no amount in respect of the receipt of the share shall be included in computing the income for the fiscal year of the person;

- (c) notwithstanding Subdivision B, in computing the cost to the person of the share, no amount shall be included in respect of the mining property or interest therein, as the case may be; and
 - (d) notwithstanding section 63, in computing the cost to the corporation of the mining property or the interest therein, as the case may be, no amount shall be included in respect of the share. R.S.O. 1970, c. 91, s. 57 (2).
- (2) In this section, Interpretation
- (a) "mining property" means a right to prospect, explore or mine for minerals or a property the principal value of which depends upon its mineral content; and
 - (b) "prospector" means an individual who prospects or explores for minerals or develops a property for minerals on behalf of himself, on behalf of himself and others or as an employee. R.S.O. 1970, c. 91, s. 57 (1).

38. Where any amount in respect of an expenditure incurred by a corporation on or in respect of the repair, replacement, alteration or renovation of depreciable property of the corporation of a class prescribed by the regulations made for the purposes of this section is, under a uniform classification and system of accounts and returns prescribed by the Canadian Transport Commission pursuant to the *Railway Act* (Canada), required to be entered in the books of the corporation otherwise than as an expense, Railway companies
R.S.C. 1970,
c. R-2

- (a) no deduction may be made in respect of that expenditure in computing the income of the corporation for the fiscal year; and
- (b) for the purposes of section 17 and regulations made under clause *a* of subsection 1 of section 24, the corporation shall be deemed to have acquired, at the time the expenditure was incurred, depreciable property of that class at a capital cost equal to that amount. R.S.O. 1970, c. 91, s. 60 (3).

39.—(1) There may be deducted in computing the income for a fiscal year of a corporation that had a permanent establishment in Canada and made expenditures in respect of scientific research in the fiscal year the amount by which the aggregate of, Scientific
research

- (a) all expenditures of a current nature made in Canada in the fiscal year,
 - (i) on scientific research related to the business and directly undertaken by or on behalf of the corporation,
 - (ii) by payments to an approved association that undertakes scientific research related to the class of business of the corporation,
 - (iii) by payments to an approved university, college, research institute or other similar institution to be used for scientific research related to the class of business of the corporation,
 - (iv) by payments to a corporation resident in Canada and exempt from tax under clause *g* of subsection 1 of section 122, or
 - (v) by payments to a corporation resident in Canada for scientific research related to the business of the corporation;
- (b) such amount as may be claimed by the corporation not exceeding the lesser of,
 - (i) the expenditures of a capital nature made in Canada, by acquiring property other than land, in the fiscal year and any previous fiscal year ending after 1958 on scientific research relating to the business and directly undertaken by or on behalf of the corporation, and
 - (ii) the undepreciated capital cost to the corporation of the property so acquired as at the end of the fiscal year, before making any deduction under this clause in computing the income of the corporation for the fiscal year; and
- (c) all expenditures in the fiscal year by way of repayment of amounts paid to the corporation under an *Appropriation Act* (Canada) and on terms and conditions approved by the Minister for the purpose of advancing or sustaining the technological capability of Canadian manufacturing or other industry,

exceeds the aggregate of amounts paid to the corporation in the fiscal year under an *Appropriation Act* (Canada) and on

terms and conditions described in clause *c*. R.S.O. 1970, c. 91, s. 46 (1).

(2) There may be deducted in computing the income for a fiscal year of a corporation that carried on business in Canada and made expenditures in the fiscal year in respect of scientific research carried on outside Canada, all such expenditures of a current nature made in the fiscal year,

- (a) on scientific research related to the business and directly undertaken by or on behalf of the corporation; or
- (b) by payments to an approved association, university, college, research institute or other similar institution to be used for scientific research related to the class of business of the corporation. R.S.O. 1970, c. 91, s. 46 (2).

(3) Where any particular activity constitutes scientific research for the purposes of section 37 of the *Income Tax Act* (Canada), such particular activity shall constitute scientific research for the purposes of this Act. R.S.O. 1970, c. 91, s. 46 (3).

(4) No deduction may be made under this section in respect of an expenditure made to acquire rights in, or arising out of, scientific research. R.S.O. 1970, c. 91, s. 46 (4).

(5) Where in respect of an expenditure on scientific research made by a corporation in a fiscal year an amount is deductible under this section and under section 98 no deduction may be made in respect of the expenditure under section 98 in computing the taxable income of the corporation for any fiscal year. R.S.O. 1970, c. 91, s. 46 (5).

(6) An amount claimed under clause *b* of subsection 1 in computing a deduction under that subsection shall, for the purpose of section 17, be deemed to be an amount allowed to the corporation in respect of the property acquired by the expenditures under regulations made under clause *a* of subsection 1 of section 24, and for that purpose the property acquired by the expenditures shall be deemed to be of a separate prescribed class. R.S.O. 1970, c. 91, s. 46 (7).

(7) In this section,

Inter-
pre-
ta-
tion

- (a) "approved" means approved by the Minister;
- (b) "scientific research" has the meaning given to that expression by regulation;

- (c) references to expenditures on or in respect of scientific research,
- (i) where the references occur in subsection 2, include only expenditures incurred for and wholly attributable to the prosecution of scientific research, and
 - (ii) where the references occur other than in subsection 2, include only expenditures incurred for and wholly attributable to the prosecution or the provision of facilities for the prosecution, of scientific research in Canada; and
- (d) references to scientific research relating to a business or class of business include any scientific research that may lead to or facilitate an extension of that business or, as the case may be, business of that class. R.S.O. 1970, c. 91, s. 46 (6).

SUBDIVISION B—TAXABLE CAPITAL GAINS
AND ALLOWABLE CAPITAL LOSSES

Meaning of
taxable
capital gain
and allowable
capital
loss

40. For the purposes of this Act,

- (a) a corporation's taxable capital gain for a fiscal year from the disposition of any property is one-half of its capital gain for the fiscal year from the disposition of that property; and
- (b) a corporation's allowable capital loss for a fiscal year from the disposition of any property is one-half of its capital loss for the fiscal year from the disposition of that property. *New.*

Meaning of
capital
gain and
capital
loss

41.—(1) For the purposes of this Act,

- (a) a corporation's capital gain for a fiscal year from the disposition of any property is the corporation's gain for the year determined under this Subdivision (to the extent of the amount thereof that would not, if section 12 were read without reference to the expression "other than a taxable capital gain from the disposition of a property" in clause *a* thereof and without reference to clause *b* thereof, be included in computing the corporation's income for the fiscal year or any other fiscal year) from the disposition of any property of the corporation other than,
 - (i) eligible capital property,

- (ii) property, any amount receivable by the corporation for the disposition of which is required to be included in computing the corporation's income for the fiscal year by virtue of section 59, or
 - (iii) a life insurance policy within the meaning of section 138 of the *Income Tax Act* (Canada), ^{1970-71, c. 63 (Can.)} except an annuity contract; and
- (b) a corporation's capital loss for a fiscal year from the disposition of any property is the corporation's loss for the year determined under this Subdivision (to the extent of the amount thereof that would not, if section 12 were read in the manner described in clause *a* of this subsection, be deductible in computing the corporation's income for the fiscal year or any other fiscal year) from the disposition of any property of the corporation other than,
- (i) depreciable property, or
 - (ii) property described in subclause i, ii or iii of clause *a*.

(2) Notwithstanding subsection 1, where, by virtue of any fluctuation after 1971 in the value of currency or currencies of one or more countries other than Canada relative to Canadian currency, a corporation has made a gain or sustained a loss in a fiscal year, the following rules apply,

- (a) the amount, if any, by which,
 - (i) the aggregate of all such gains made by the corporation in the fiscal year (to the extent of the amount thereof that would not if section 12 were read in the manner described in clause *a* of subsection 1 of this section, be included in computing the corporation's income for the fiscal year or any other fiscal year),

exceeds

- (ii) the aggregate of all such losses sustained by the corporation in the fiscal year, to the extent of the amounts thereof that would not, if section 12 were read in the manner described in clause *a* of subsection 1 of this section be deductible in computing the corporation's income for the fiscal year or any other fiscal year,

shall be deemed to be a capital gain of the corporation for the fiscal year from the disposition of currency of a country other than Canada, the amount of which capital gain is the amount determined under this clause; and

(b) the amount, if any, by which,

(i) the aggregate determined under subclause ii of clause *a*,

exceeds

(ii) the aggregate determined under subclause i of clause *a*,

shall be deemed to be a capital loss of the corporation for the year from the disposition of currency of a country other than Canada, the amount of which capital loss is the amount determined under this clause.

Gain on
purchase
of bonds
by issuer

(3) Where a corporation has issued any bond, debenture or similar obligation and has at any subsequent time in a fiscal year and after 1971 purchased the obligation in the open market, in the manner in which any such obligation would normally be purchased in the open market by any member of the public,

(a) the amount, if any, by which the amount for which the obligation was issued by the corporation exceeds the purchase price paid or agreed to be paid by the corporation for the obligation shall be deemed to be a capital gain of the corporation for the fiscal year from the disposition of a capital property; and

(b) the amount, if any, by which the purchase price paid or agreed to be paid by the corporation for the obligation exceeds the greater of the principal amount thereof and the amount for which it was issued by the corporation shall be deemed to be a capital loss of the corporation for the fiscal year from the disposition of a capital property,

to the extent of the amount of the capital gain or capital loss, as the case may be, that would not, if section 12 were read in the manner described in clause *a* of subsection 1 of this section, be included or be deductible, as the case may be, in computing the corporation's income for the fiscal year or any other fiscal year. *New.*

42.—(1) Except as otherwise expressly provided in this Part, General rules

- (a) a corporation's gain for a fiscal year from the disposition of any property is the amount, if any, by which,
 - (i) if the property was disposed of in the fiscal year, the amount, if any, by which the corporation's proceeds of disposition exceed the aggregate of the adjusted cost base to it of the property immediately before the disposition and any outlays and expenses to the extent that they were made or incurred by the corporation for the purpose of making the disposition, or
 - (ii) if the property was disposed of before the fiscal year, the amount, if any, claimed by the corporation under subclause iii in computing the corporation's gain for the immediately preceding fiscal year from the disposition of the property,

exceeds

- (iii) such amount as the corporation may claim, not exceeding a reasonable amount as a reserve in respect of such of the proceeds of disposition of the property that are not due to the corporation until after the end of the fiscal year as may reasonably be regarded as a portion of the amount determined under subclause i in respect of the property; and
- (b) a corporation's loss for a fiscal year from the disposition of any property is,
 - (i) if the property was disposed of in the fiscal year, the amount, if any, by which the aggregate of the adjusted cost base to the corporation of the property immediately before the disposition and any outlays and expenses to the extent that they were made or incurred by the corporation for the purpose of making the disposition, exceeds its proceeds of disposition of the property, and
 - (ii) in any other case, nil.

(2) Notwithstanding subsection 1,

Limitations

- (a) subclause iii of clause *a* of subsection 1 does not apply to permit a corporation to claim any amount thereunder in computing a gain for a fiscal year if the corporation was, at any time in the fiscal year or the immediately following fiscal year, not resident in Canada;
- (b) a corporation's loss for a fiscal year from the disposition of a bond or debenture is its loss therefrom for the fiscal year otherwise determined, less the aggregate of such amounts received by it as, on account or in lieu of payment of, or in satisfaction of interest thereon as were, by virtue of clause *e* of subsection 1 of section 75, not included in computing its income;
- (c) a corporation's loss otherwise determined from the disposition of any property disposed of by it to,
 - (i) a person by whom it was controlled, or
 - (ii) a corporation that was controlled by a person described in subclause i,
 is nil;
- (d) a corporation's gain or loss from the disposition of,
 - (i) a chance to win a prize, or
 - (ii) a right to receive an amount as a prize,
 in connection with a lottery scheme is nil; and
- (e) a corporation's loss, if any, from the disposition of a property, to the extent that it is,
 - (i) a superficial loss,
 - (ii) a loss from the disposition of a debt or other right to receive an amount, unless the debt or right, as the case may be, was acquired by the corporation for the purpose of gaining or producing income from a business or property, other than exempt income, or as consideration for the disposition of capital property to a person with whom the corporation was dealing at arm's length, or

- (iii) a loss from the disposition of any personal-use property of the corporation other than listed personal property,

is nil.

(3) Where,

- (a) the aggregate of all amounts required by subsection 2 of section 55, except clause *b* thereof, to be deducted in computing the adjusted cost base to a corporation of any property at any time in a fiscal year,

Deemed gain where amounts to be deducted from adjusted cost base exceed cost plus amounts to be added to adjusted cost base

exceeds

- (b) the aggregate of the cost to it of the property and all amounts required by subsection 1 of section 55 to be included in computing the adjusted cost base to a corporation of that property at that time,

the amount of the excess shall be deemed to be a gain of the corporation for the fiscal year from a disposition at that time of that property. *New.*

43.—(1) For the purposes of this Part, a corporation's taxable net gain for a fiscal year from dispositions of listed personal property is one-half of the amount determined under subsection 2 to be its net gain for the fiscal year from dispositions of such property. Meaning of taxable net gain from dispositions of listed personal property

(2) A corporation's net gain for a fiscal year from dispositions of listed personal property is an amount determined as follows, Determination of net gain

- (a) determine the amount, if any, by which the aggregate of its gains for the fiscal year from dispositions of listed personal property exceeds the aggregate of its losses for the fiscal year from dispositions of listed personal property; and
- (b) deduct from the amount determined under clause *a* its listed-personal-property losses for the five fiscal years immediately preceding and the fiscal year immediately following the fiscal year, except that for the purposes of this clause,
- (i) an amount in respect of a listed-personal-property loss is only deductible to the extent that it exceeds the aggregate of amounts previously deductible in respect of that loss under this clause,

- (ii) no amount is deductible in respect of the listed-personal-property loss of any fiscal year until the deductible listed-personal-property losses for previous fiscal years have been deducted, and
- (iii) no amount is deductible in respect of listed-personal-property losses from the amount determined under clause *a* for a fiscal year except to the extent of the amount so determined for the fiscal year,

and the remainder determined under clause *b* is the corporation's net gain for the fiscal year from dispositions of listed personal property.

"Listed-personal-property-loss" defined

(3) In this section, "listed-personal-property loss" of a corporation for a fiscal year means the amount, if any, by which the aggregate of its losses for the fiscal year from dispositions of listed personal property exceeds the aggregate of its gains for the fiscal year from dispositions of listed personal property. *New.*

Dispositions subject to warranty

44. In computing a corporation's proceeds of disposition of any property for the purposes of this Subdivision, there shall be included any amount received or receivable by the corporation as consideration for any warranty, covenant or other conditional or contingent obligation incurred by the corporation in respect of the disposition, and in computing the corporation's income for the fiscal year in which the property was disposed of or for any of the six immediately following fiscal years, any outlay or expense made or incurred by the corporation in any such fiscal year pursuant to or by virtue of the obligation shall, if the obligation was a legal obligation incurred by the corporation, be deemed to be a loss of the corporation for that fiscal year from the disposition of a capital property. *New.*

Part dispositions

45. For the purpose of computing a corporation's gain for a fiscal year from the disposition of a part of a property, the adjusted cost base to the corporation, immediately before the disposition, of that part is such portion of the adjusted cost base to the corporation at that time of the whole property as may reasonably be regarded as attributable to that part. *New.*

Deferral of gain on involuntary dispositions

46. Where in a fiscal year a corporation has received proceeds of disposition described in subclause iii or iv of clause *i* of section 56 of any property, in this section referred to as its "former property", and, before the end of the following fiscal year, has expended an amount to acquire other property as a replacement for its former property, notwithstanding subsection 1 of section 42,

- (a) the gain, if any, from the disposition of its former property is the lesser of,
 - (i) the gain therefrom otherwise determined, and
 - (ii) the amount, if any, by which the proceeds of disposition of its former property exceed the cost to the corporation, otherwise determined, of the other property; and
- (b) the cost to the corporation of the other property shall be deemed to be the cost to the corporation of the other property otherwise determined, minus the amount, if any, by which the gain described in subclause i of clause *a* exceeds the excess, if any, determined under subclause ii of clause *a*. *New.*

47.—(1) For the purposes of this Subdivision the following rules apply, Property with more than one use

- (a) where a corporation,
 - (i) having acquired property for some other purpose, has commenced at a later time to use it for the purpose of gaining or producing income therefrom, or for the purpose of gaining or producing income from a business, or
 - (ii) having acquired property for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business, has commenced at a later time to use it for some other purpose,

the corporation shall be deemed to have,

- (iii) disposed of it at that later time for proceeds equal to its fair market value at that later time, and
 - (iv) immediately thereafter reacquired it at a cost equal to that fair market value;
- (b) where property has, since it was acquired by a corporation, been regularly used in part for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business and in part for some other purpose, the corporation shall be deemed to have acquired, for that other purpose, the proportion of the property that the use

regularly made of the property for that other purpose is of the whole use regularly made of the property at a cost to the corporation equal to the same proportion of the cost to it of the whole property; and, if the property has, in such a case, been disposed of, the proceeds of disposition of the proportion of the property deemed to have been acquired for that other purpose shall be deemed to be the same proportion of the proceeds of disposition of the whole property; and

- (c) where, at any time after a corporation has acquired property, there has been a change in the relation between the use regularly made by the corporation of the property for gaining or producing income therefrom or income from a business and the use regularly made of the property for other purposes,
 - (i) if the use regularly made by it of the property for those other purposes has increased, it shall be deemed to have,
 - (A) disposed of property at that time for proceeds equal to the proportion of the fair market value of the property at that time that the amount of the increase in the use regularly made by the corporation of the property for those other purposes is of the whole use regularly made of the property, and
 - (B) immediately thereafter reacquired the property so disposed of at a cost equal to the proceeds referred to in subclause A, and
 - (ii) if the use regularly made by the corporation of the property for those other purposes has decreased, it shall be deemed to have disposed of property at that time and the proceeds of disposition shall be deemed to be an amount equal to the proportion of the fair market value of the property at that time that the amount of the decrease in use regularly made by it of the property for those other purposes is of the whole use regularly made of the property.

section 17 would otherwise be applicable in respect of any property of a corporation for a fiscal year and the corporation so elects as provided under subsection 2 of section 45 of the *Income Tax Act* (Canada), the corporation shall be deemed not to have commenced to use the property for the purpose of gaining or producing income therefrom or for the purpose of gaining or producing income from a business except that if the corporation rescinds such election in a subsequent fiscal year in respect of the property, it shall be deemed to have commenced so to use the property on the first day of that subsequent fiscal year. *New.*

48.—(1) Where a corporation has disposed of any personal-use property of the corporation, for the purposes of this Subdivision, Personal-use property

- (a) the adjusted cost base to the corporation of the property immediately before the disposition shall be deemed to be the greater of \$1,000 and the amount otherwise determined to be its adjusted cost base to it at that time; and
- (b) its proceeds of disposition of the property shall be deemed to be the greater of \$1,000 and its proceeds of disposition of the property otherwise determined.

(2) Where a corporation has disposed of part of a personal-use property owned by it and has retained another part of the property, for the purposes of this Subdivision, Where part only of property disposed of

- (a) the adjusted cost base to the corporation immediately before the disposition, of the part so disposed of shall be deemed to be the greater of,
 - (i) the adjusted cost base to it at that time of that part otherwise determined, and
 - (ii) that proportion of \$1,000 that the amount determined under subclause i is of the adjusted cost base to it at that time of the whole property; and
- (b) the proceeds of disposition of the part so disposed of shall be deemed to be the greater of,
 - (i) the proceeds of disposition thereof otherwise determined, and
 - (ii) the amount determined under subclause ii of clause a.

Properties
ordinarily
disposed
of as a set

(3) For the purposes of this Subdivision, where a number of personal-use properties of a corporation that would, if the properties were disposed of, ordinarily be disposed of in one disposition as a set,

- (a) have been disposed of by more than one disposition so that all of the properties have been acquired by one person or by a group of persons not dealing with each other at arm's length; and
- (b) had, immediately before the first disposition referred to in clause *a*, an aggregate fair market value greater than \$1,000,

the properties shall be deemed to be a single personal-use property and each such disposition shall be deemed to be a disposition of a part of that property.

Decrease in
value of
personal-
use property
of corpora-
tion, etc.

(4) Where it may reasonably be regarded that, by reason of a decrease in the fair market value of any personal-use property of a corporation, partnership or trust,

- (a) a corporation's gain, if any, from the disposition of a share of the capital stock of a corporation, an interest in a trust or an interest in a partnership has become a loss, or is less than it would have been if the decrease had not occurred; or
- (b) a corporation's loss, if any, from the disposition of a share or interest described in clause *a* is greater than it would have been if the decrease had not occurred;

the amount of the gain or loss, as the case may be, shall be deemed to be the amount that it would have been but for the decrease. *New.*

Identical
properties

49.—(1) Where at any particular time after 1971 a corporation that owns one property or two or more identical properties that was or each of which was, as the case may be, acquired by it after 1971, acquires one or more other properties, in this subsection referred to as "newly-acquired properties", each of which is identical to each such previously-acquired property, for the purposes of computing, at any subsequent time, the adjusted cost base to the corporation of each such identical property,

- (a) the corporation shall be deemed to have disposed of each such previously-acquired property immediately before the particular time for proceeds equal to its adjusted cost base to it immediately before the particular time; and

(b) the corporation shall be deemed to have acquired each such identical property at the particular time at a cost equal to the quotient obtained when,

- (i) the aggregate of the adjusted cost bases to the corporation immediately before the particular time of the previously-acquired properties, and the cost to it, determined without reference to this section, of the newly-acquired properties,

is divided by

- (ii) the number of such identical properties owned by the corporation immediately after the particular time.

(2) For the purposes of subsection 1, where a group of identical properties referred to in that subsection is a group of identical obligations within the meaning of subsection 3, subclause ii of clause b of subsection 1 shall be read as follows:

Where identical properties are bonds, etc.

- “(ii) the quotient obtained when the aggregate of the principal amounts of all such identical properties owned by the corporation immediately after the particular time is divided by the principal amount of the identical property.”

(3) For the purposes of this Subdivision, one bond, debenture, bill, note or other similar obligation issued by a debtor is identical to another such obligation issued by that debtor if both are identical in respect of all rights, in equity or otherwise, either immediately or in the future and either absolutely or contingently, attaching thereto, except as regards the principal amount thereof. *New.*

When bonds, etc., are identical

50.—(1) For the purposes of this Subdivision, where at any time in a fiscal year a corporation ceases to be resident in Canada, it shall be deemed to have disposed of each property, other than any property that would be taxable Canadian property if at no time in the fiscal year it had been resident in Canada, owned by the corporation at that time, for proceeds of disposition equal to the fair market value of the property at that time, and to have reacquired the property immediately thereafter at a cost equal to that fair market value.

Deemed disposition on ceasing to be resident in Canada

(2) For the purposes of this Subdivision, where at any time after 1971 a corporation becomes a resident of Canada, it shall be deemed to have acquired at that time each property owned by it at that time, other than property that would be taxable Canadian property if at no time in the fiscal year it had been

Deemed acquisition on becoming a resident of Canada

resident in Canada, if the corporation had disposed of it immediately before that time, at a cost equal to its fair market value at the time it became a resident of Canada. *New.*

Granting
of option

51.—(1) Subject to subsections 2 and 3, for the purpose of this Subdivision the granting of an option, other than an option granted by a corporation to acquire shares of its capital stock or bonds or debentures to be issued by it, is a disposition of a property the adjusted cost base of which to the grantor immediately before the grant is nil.

Where
option
expires

(2) Where at any time an option described in subsection 1, other than an option the consideration for the granting of which is an amount described in subclause v of clause b of subsection 12 of section 63 paid pursuant to an agreement described in that subclause, that has been granted by a corporation after 1971 expires,

- (a) the corporation shall be deemed to have disposed of capital property at that time for proceeds equal to the proceeds received by it for the granting of the option; and
- (b) the adjusted cost base to the corporation of that capital property immediately before that time shall be deemed to be nil.

Where
option
exercised

(3) Where an option is exercised so that property is disposed of by a person, hereinafter referred to as the “vendor”, or so that property is acquired by another person, hereinafter referred to as the “purchaser”, for the purpose of computing the income of each such person the granting of the option and the exercise thereof shall be deemed not to be dispositions of property and,

- (a) if the option is an option to acquire property, there shall be included,
 - (i) in computing the vendor’s proceeds of disposition of the property, the consideration received by him for the option, and
 - (ii) in computing the cost to the purchaser of the property, the adjusted cost base to him of the option; and

- (b) if the option is an option to dispose of property, there shall be deducted,

- (i) in computing the vendor's proceeds of disposition of the property, the adjusted cost base to him of the option, and
- (ii) in computing the cost to the purchaser of the property, the consideration received by him for the option.

(4) Where,

- (a) an option granted by a corporation in a fiscal year, in this subsection referred to as the "initial fiscal year", is exercised in a subsequent fiscal year, in this subsection referred to as the "subsequent fiscal year";
- (b) the corporation has filed a return for the initial fiscal year as required by section 145; and
- (c) on or before the day on or before which it was required by section 145 to file a return for the subsequent fiscal year, has filed an amended return for the initial fiscal year excluding from its income the proceeds received by it for the granting of the option,

Reassess-
ment where
option
exercised
in sub-
sequent year

such reassessment of the corporation's tax, interest or penalties for the fiscal year shall be made as is necessary to give effect to the exclusion. *New.*

52.—(1) For the purposes of this Subdivision, where a debt owing to a corporation at the end of a fiscal year, other than a debt owing to it in respect of the disposition of a personal-use property, is established by it to have become a bad debt in the fiscal year, it shall be deemed to have disposed of it at the end of the fiscal year and to have reacquired it immediately thereafter at a cost equal to nil.

Debts
established
to be bad
debts

(2) Where a debt owing to a corporation at the end of a fiscal year that is a personal-use property of the corporation is established by it to have become a bad debt in the fiscal year,

Where debt
personal-
use property

- (a) it shall be deemed to have disposed of it at the end of the fiscal year for proceeds equal to the amount, if any, by which,
 - (i) its adjusted cost base to it immediately before the end of the fiscal year,

exceeds

- (ii) the amount of its gain, if any, from the disposition of the personal-use property the proceeds of disposition of which included the debt; and

- (b) it shall be deemed to have reacquired the debt immediately after the end of the fiscal year at a cost equal to the amount of the proceeds determined under clause *a*. *New*.

Convertible
properties

53. Where shares of the capital stock of a corporation have, after 1971, been acquired by a person in exchange for a preferred share, bond, debenture or note of the corporation, in this section referred to as a “convertible property”, the terms of which conferred upon the holder the right to make the exchange,

- (a) the exchange shall be deemed not to have been a disposition of property; and
- (b) the cost to the person of the shares shall be deemed to be the adjusted cost base to him of the convertible property immediately before the exchange. *New*.

Cost of
certain
property
value of
which
included in
income

54.—(1) For the purposes of this Subdivision, where a corporation has acquired property after 1971 and an amount in respect of the value thereof has been included in computing the corporation's income, the amount so included shall be added in computing the cost to it of that property.

Cost of
property
received
as dividend
in kind

(2) Where any property has, after 1971, been received by a shareholder of a corporation at any time as, on account or in lieu of payment of, or in satisfaction of, a dividend payable in kind, other than a stock dividend, in respect of a share owned by him of the capital stock of the corporation, he shall be deemed to have acquired the property at a cost to him equal to its fair market value at that time, and the corporation shall be deemed to have disposed of the property at that time for proceeds equal to that fair market value.

Cost of
stock
dividend

(3) Where a corporation that is a shareholder of another corporation has, after 1971, received a stock dividend in respect of a share owned by it of the capital stock of the other corporation, it shall be deemed to have acquired the share or shares received by it as a stock dividend at a cost to it equal to the amount of the stock dividend.

Cost of
property
acquired
as prize

(4) Where any property has been acquired by a corporation at any time after 1971 as a prize in connection with a lottery scheme, it shall be deemed to have acquired the property at a cost to it equal to its fair market value at that time.

(5) Where any property has, after 1971, been transferred to a beneficiary by a trustee under an employees profit sharing plan,

Cost of property transferred by trustee under employees profit sharing plan

(a) subsection 1 does not apply in respect of the property; and

(b) the beneficiary shall be deemed to have acquired the property at a cost to him equal to its fair market value at the time of the transfer. *New.*

55.—(1) In computing the adjusted cost base to a corporation of property at any time, there shall be added to the cost to the corporation of the property such of the following amounts in respect of the property as are applicable,

Adjustments to cost base

(a) any amount deemed by subsection 3 of section 42 to be a gain of the corporation for a fiscal year from a disposition before that time of the property;

(b) where the property is a share of the capital stock of another corporation resident in Canada, the amount of any dividend on the share deemed by subsection 1 of section 78 to have been received by the corporation before that time;

(c) where the property is a share of the capital stock of another corporation resident in Canada, and the corporation has, after 1971, made a contribution of capital to that other corporation otherwise than by way of loan, that proportion of such part of the amount of the contribution as cannot reasonably be regarded as a gift made to or for the benefit of any other shareholder of the other corporation who was related to the corporation that,

(i) the amount that may reasonably be regarded as the increase in the fair market value, as a result of the contribution, of the share,

is of

(ii) the amount that may reasonably be regarded as the increase in the fair market value, as a result of the contribution, of all shares of the capital stock of the other corporation owned by the corporation immediately after the contribution;

(d) where the property is an interest in a partnership,

- (i) an amount in respect of each fiscal year of the partnership ending after 1971 and before that time, equal to the aggregate of all amounts each of which is the corporation's share of the income of the partnership from any source for that fiscal year, computed as if this Act were read without reference to,
 - (A) the references in section 18, clause *a* of section 40 and subsection 1 of section 43 to "one-half", and
 - (B) clause *h* of this subsection, section 57 and subsection 2 of section 75,
- (ii) the corporation's share of any capital dividends received by the partnership before that time on shares of the capital stock of a corporation that were partnership property,
- (iii) the corporation's share of the amount, if any, by which,
 - (A) any proceeds of a life insurance policy received by the partnership after 1971 and before that time in consequence of the death of any person whose life was insured under the policy,

exceeds

 - (B) all amounts paid as or on account of premiums under the policy, and
- (iv) where the corporation has, after 1971, made a contribution of capital to the partnership otherwise than by way of loan, such part of the amount of the contribution as cannot reasonably be regarded as a gift made to or for the benefit of any other member of the partnership who was related to the corporation;
- (e) where the property is substituted property of the corporation within the meaning of clause *j* of section 56, the amount of the loss that was, by virtue of the acquisition by the corporation of the property, a superficial loss of any person;
- (f) where the property is a bond, debenture, bill, note, mortgage, hypothec or similar obligation, the amount, if any, by which the principal amount of the obligation

exceeds the amount for which the obligation was issued, if such excess was required by subsection 2 or 3 of section 20 to be included in computing the income of the corporation for a fiscal year commencing before that time;

- (g) where the property is land of the corporation, any amount paid by it after 1971 and before that time pursuant to a legal obligation to pay,
 - (i) interest on borrowed money used to acquire the land, or on an amount payable by it for the land, or
 - (ii) property taxes, not including income or profits taxes or taxes imposed by reference to the transfer of property, paid by it in respect of the property to a province or to a Canadian municipality,

to the extent that that amount was, by virtue of subsection 2 of section 22, not deductible in computing the corporation's income from the land or from a business for any fiscal year commencing before that time;

- (h) where the property is land used in a farming business carried on by the corporation, an amount in respect of each fiscal year ending after 1971 and commencing before that time, equal to the corporation's loss, if any, for that fiscal year from the farming business, to the extent that such loss,
 - (i) was not, by virtue of section 33, deductible in computing the corporation's income for that year,
 - (ii) was not deductible in computing the corporation's taxable income for the fiscal year in which the corporation disposed of the property or any previous fiscal year,
 - (iii) did not exceed the aggregate of,
 - (A) taxes, other than income or profits taxes or taxes imposed by reference to the transfer of the property, paid by the corporation in that fiscal year or payable by the corporation in respect of that fiscal year to a province or a

Canadian municipality in respect of the property, and

- (B) interest, paid by the corporation in that fiscal year or payable by the corporation in respect of that fiscal year, pursuant to a legal obligation to pay interest on borrowed money used to acquire the property or on any amount as consideration payable for the property,

to the extent that such taxes and interest were included in computing the loss, and

- (iv) did not exceed the remainder obtained when,

- (A) the aggregate of each of the corporation's losses from the farming business for fiscal years preceding that fiscal year, to the extent that they are required by this clause to be added in computing the corporation's adjusted cost base of the property,

is deducted from

- (B) the amount, if any, by which the corporation's proceeds of disposition of the property exceed the adjusted cost base to the corporation of the property immediately before that time, determined without reference to this clause;

- (i) where the property is a foreign resource property, such part of the foreign exploration and development expenses incurred by the corporation after 1971 with respect to such property that is not allowed as a deduction from income for the purposes of this Act.

Amounts
to be
deducted

(2) In computing the adjusted cost base to a corporation of property at any time there shall be deducted such of the following amounts in respect of the property as are applicable,

- (a) where the property is a share of the capital stock of another corporation resident in Canada,
 - (i) any amount received by the corporation after 1971 and before that time as, on account or in lieu of payment of, or in satisfaction of, a

dividend on the share, other than a taxable dividend or capital dividend,

- (ii) an amount in respect of any taxable dividend on the share received by the corporation after 1971 and before that time, on any portion of which tax under Part VII of the *Income Tax Act* (Canada) was payable by the corporation equal to the amount by which that portion exceeds the tax under Part VII of the *Income Tax Act* (Canada) payable thereon,^{1970-71, c. 63 (Can.)}
- (iii) an amount in respect of any taxable dividend on the share received by the corporation after 1971 and before that time while it was not resident in Canada in respect of which tax under Part VIII of the *Income Tax Act* (Canada) was payable by the payor corporation, equal to the amount, if any, by which,

- (A) that proportion of the dividend that such part of all dividends that were paid by the payor corporation at the time the dividend was paid as was paid out of designated surplus, within the meaning of Part VII of the *Income Tax Act* (Canada), is of all dividends that were paid by the payor corporation at the time the dividend was paid,

exceeds

- (B) such part of any tax under Part XIII of the *Income Tax Act* (Canada) that was payable by the corporation on the dividend as may reasonably be considered to have been payable on the proportion of the dividend described in subclause A, and
- (iv) any amount received by the corporation after 1971 and before that time on a reduction of the paid-up capital of that other corporation in respect of the share except to the extent that that amount is deemed by subsection 4 of section 78 to be a dividend received by the corporation;

- (b) where the property is an interest in a partnership,

- (i) an amount in respect of each fiscal year of the partnership ending after 1971 and before that time, equal to the aggregate of amounts each of which is the corporation's share of any loss of the partnership from any source for that fiscal year, computed as if this Act were read without reference to,
 - (A) the references in section 18 and clause *b* of section 40 to "one-half", and
 - (B) section 33, subsection 2 of section 42 and section 57,
 - (ii) an amount in respect of each fiscal year of the partnership ending after 1971 and before that time, equal to the corporation's share of the aggregate of,
 - (A) amounts that, but for clause *d* of subsection 1 of section 85 would be deductible in computing the income of the partnership for the fiscal year by virtue of subsection 1 of section 62 or the provisions of the *Corporations Tax Application Rules, 1972* relating to Canadian exploration and development expenses, and
 - (B) the Canadian exploration and development expenses, within the meaning assigned by subsection 12 of section 63, if any, incurred by the partnership in the fiscal year,
 - (iii) any amount deemed by subsection 3 of section 98 to have been a gift made by the corporation by virtue of its membership in the partnership at the end of any fiscal year of the partnership ending before that time,
 - (iv) any amount received by the corporation after 1971 and before that time as, on account or in lieu of payment of, or in satisfaction of, a distribution of the corporation's share of the partnership profits or partnership capital;
- (c) where the property is such that the corporation has, after 1971 and before that time, disposed of a part of it while retaining another part of it, the amount

determined under section 45 to be the adjusted cost base to the corporation of the part so disposed of;

- (d) where the property is a share, or an interest therein or right thereto, of the capital stock of another corporation, the amount paid by the corporation therefor, to the extent that the amount was paid pursuant to an agreement described in subclause v of clause *b* of subsection 12 of section 63;
- (e) where the property was received by the corporation as consideration for any payment,
 - (i) made by the corporation as a shareholder corporation, within the meaning given to that expression by subsection 12 of section 63, to a joint exploration corporation of the shareholder, and
 - (ii) described in subclause i of clause *a* of subsection 12 of section 63,

such portion of the payment as may reasonably be considered to be related to an agreed portion within the meaning given to that expression by clause *a* of subsection 12 of section 63, of the joint exploration corporation's Canadian exploration and development expenses;

- (f) where section 71 is applicable in respect of the corporation, the amount, if any, by which the adjusted cost base to the corporation of the property is required in prescribed manner to be reduced before that time;
- (g) where the property is,
 - (i) a capital interest in a trust that was purchased by the corporation, or
 - (ii) a unit of a unit trust,

any amount paid to the corporation by the trust after 1971 and before that time as, on account or in lieu of payment of, or in satisfaction of a distribution or payment of capital, otherwise than as proceeds of disposition of the interest or unit, as the case may be, or of a part thereof;

- (h) where the property is a capital interest in a trust, other than a unit trust, not resident in Canada that was purchased after 1971 by the corporation from a

non-resident person at a time when the fair market value of such of the properties of the trust as were taxable Canadian properties was not less than 50 per cent of the aggregate of the fair market value of all properties of the trust and the amount of any money of the trust on hand, that proportion of the amount, if any, by which,

- (i) the fair market value at that time of such of the properties of the trust as were taxable Canadian properties,

exceeds

- (ii) the aggregate of the adjusted cost bases to the trust at that time of such of the properties of the trust as were taxable Canadian properties,

that the fair market value at that time of the interest is of the fair market value at that time of all capital interests in the trust;

- (i) where the property is a unit of a unit trust not resident in Canada that was purchased after 1971 by the corporation from a non-resident person at a time when the fair market value of such of the properties of the trust as were taxable Canadian properties was not less than 50 per cent of the aggregate of the fair market value of all properties of the trust and the amount of any money of the trust on hand, that proportion of the amount, if any, by which,

- (i) the fair market value at that time of such of the properties of the trust as were taxable Canadian properties,

exceeds

- (ii) the aggregate of the adjusted cost bases to the trust at that time of such of the properties of the trust as were taxable Canadian properties,

that the fair market value at that time of the unit is of the fair market value at that time of all of the issued units of the trust;

- (j) any grant, subsidy or other assistance from a government, municipality or other public authority received by the corporation for or in respect of the acquisition by it after 1971 of the property;

- (k) where the property is a bond, debenture or similar security, other than an income bond or income debenture, any amount that was deductible by virtue of subsection 12 of section 24 in computing the corporation's income for any fiscal year commencing before that time in respect of interest thereon; and
- (l) such part of the cost to the corporation of the property as was deductible, otherwise than by virtue of this Subdivision, in computing the corporation's income for any fiscal year commencing before that time.

(3) For the purposes of clauses *h* and *i* of subsection 2, where any property of a trust would, at a particular time have been a taxable Canadian property of the trust if it had been disposed of by the trust at that time, the property shall be deemed to have been a taxable Canadian property of the trust at that time. *New.*

Application
of cls. *h*
and *i* of
subs. 2

56. In this Subdivision,

Interpre-
tation

- (a) "adjusted cost base" to a corporation of any property at any time means, except as otherwise provided,
 - (i) where the property is depreciable property of the corporation, the capital cost to it of the property as of that time, and
 - (ii) in any other case, the cost to the corporation of the property adjusted, as of that time, in accordance with section 55,

except that

- (iii) for greater certainty, where any property of the corporation is property that was reacquired by the corporation after having been previously disposed of by it, no adjustment to the cost to the corporation of the property that was required to be made under section 55 before its reacquisition by the corporation shall be made under that section to the cost to the corporation of the property as reacquired property of the corporation, and
 - (iv) in no case shall the adjusted cost base of any property at the time of its disposition by the corporation be less than nil;
- (b) "capital property" of a corporation means,
 - (i) any depreciable property of the corporation, and

- (ii) any property, other than depreciable property, any gain or loss from the disposition of which would, if the property were disposed of, be a capital gain or a capital loss, as the case may be, of the corporation;
- (c) "disposition" of any property except as expressly otherwise provided, includes,
 - (i) any transaction or event entitling a corporation to proceeds of disposition of property,
 - (ii) any transaction or event by which,
 - (A) any property of a corporation that is a share, bond, debenture, note, certificate, mortgage, hypothec, agreement of sale or similar property, or an interest therein, is redeemed in whole or in part or is cancelled,
 - (B) any debt owing to a corporation or any other right of a corporation to receive an amount is settled or cancelled,
 - (C) any share owned by a corporation is converted by virtue of an amalgamation, or
 - (D) any option held by a corporation to acquire or dispose of property expires, and
 - (iii) any transfer of property to a trust, or any transfer of property of a trust to any beneficiary under the trust, except as provided in clause *v*,

but, for greater certainty, does not include,

- (iv) any transfer of property for the purpose only of securing a debt or a loan, or any transfer by a creditor for the purpose only of returning property that had been used as security for a debt or a loan,
- (v) any transfer of property by virtue of which there is a change in the legal ownership of the property without any change in the beneficial ownership thereof,

- (vi) any issue by a corporation of a bond, debenture, note, certificate, mortgage or hypothec of the corporation, or
 - (vii) any issue by a corporation of a share of its capital stock, or any other transaction that, but for this subclause, would be a disposition by a corporation of a share of its capital stock;
- (d) “eligible capital property” of a corporation means any property, one-half of any amount payable to the corporation as consideration for the disposition of which would, if it disposed of the property, be an eligible capital amount in respect of a business within the meaning given that expression in subsection 1 of section 18;
- (e) “foreign exploration and development expenses” incurred by a corporation means,
- (i) any drilling or exploration expense, including any general geological or geophysical expense, incurred by it on or in respect of exploring or drilling for petroleum or natural gas outside Canada,
 - (ii) any prospecting, exploration or development expense incurred by it in searching for minerals outside Canada,
 - (iii) its share of the foreign exploration and development expenses incurred by any association, partnership or syndicate in a fiscal year thereof, if at the end of that fiscal year it was a member or partner thereof;
- (f) “foreign resource property” of a corporation means any property that would be a Canadian resource property of the corporation if clause *c* of subsection 12 of section 63 were read as if the references therein to “in Canada” were read as references to “outside Canada”, and were read without reference to the words “after 1971”;
- (g) “listed personal property” of a corporation means its personal-use property that is all or any portion of, or any interest in or right to, any,
- (i) print, etching, drawing, painting, sculpture, or other similar work of art,

- (ii) jewellery,
 - (iii) rare folio, rare manuscript, or rare book,
 - (iv) stamp, or
 - (v) coin;
- (h) “personal-use property” of a corporation includes,
- (i) property owned by it that is used primarily for the personal use or enjoyment of one or more persons each of whom is,
 - (A) a person related to the corporation, or
 - (B) where the corporation is a beneficiary under a trust or any person related to the beneficiary,
 - (ii) any debt owing to the corporation in respect of the disposition of property that was its personal-use property, and
 - (iii) any property of the corporation that is an option to acquire property that would, if it acquired it, be personal-use property of the corporation,

and “personal-use property” of a partnership includes any partnership property that is used primarily for the personal use or enjoyment of any member of the partnership or for the personal use or enjoyment of one or more persons each of whom is a member of the partnership or a person related to such a member;

- (i) “proceeds of disposition” of property includes,
- (i) the sale price of property that has been sold,
 - (ii) compensation for property unlawfully taken,
 - (iii) compensation for property destroyed, and any amount payable under a policy of insurance in respect of loss or destruction of property,
 - (iv) compensation for property taken under statutory authority or the sale price of property sold to a person by whom notice of an intention to take it under statutory authority was given,

- (v) compensation for property injuriously affected, whether lawfully or unlawfully or under statutory authority or otherwise,
- (vi) compensation for property damaged and any amount payable under a policy of insurance in respect of damage to property, except to the extent that such compensation or amount, as the case may be, has within a reasonable time after the damage been expended on repairing the damage,
- (vii) an amount by which the liability of a corporation to a mortgagee is reduced as a result of the sale of mortgaged property under a provision of the mortgage, plus any amount received by the corporation out of the proceeds of such sale, and
- (viii) any amount included in computing a corporation's proceeds of disposition of the property by virtue of clause *c* of section 70,

but, notwithstanding any other provision of this Part, does not include any amount that would otherwise be proceeds of disposition of a share to the extent that such amount is deemed by subsection 2 or 3 of section 78 to be a dividend; and

- (j) "superficial loss" of a person means his loss from the disposition of a property in any case where,
 - (i) the same or identical property, in this clause referred to as "substituted property", was acquired, during the period beginning 30 days before the disposition and ending 30 days after the disposition, by the person or a corporation controlled, whether directly or indirectly in any manner whatever, by him, and
 - (ii) at the end of the period referred to in sub-clause i the person or the corporation controlled, whether directly or indirectly in any manner whatever, as the case may be, owned the substituted property,

except that a loss otherwise described in this clause shall be deemed not to be a superficial loss if the disposition giving rise to the loss,

- (iii) was a disposition deemed by section 50 to have been made,
- (iv) was the expiry of an option, or

- (v) was a disposition of property by the person to which subsection 4 of section 79 applies.

Avoidance

57. For the purposes of this subdivision, where the result of one or more sales, exchanges, declarations of trust, or other transactions of any kind whatever is that a corporation has disposed of property under circumstances such that it may reasonably be considered to have artificially or unduly,

- (a) reduced the amount of its gain from the disposition;
- (b) created a loss from the disposition; or
- (c) increased the amount of its loss from the disposition,

the corporation's gain or loss, as the case may be, from the disposition of the property shall be computed as if such reduction, creation or increase, as the case may be, had not occurred. *New.*

SUBDIVISION C—OTHER SOURCES OF INCOME

Amounts to
be included
in income
for year

58.—(1) Without restricting the generality of section 12, there shall be included in computing the income of a corporation for a fiscal year,

Pension
benefits

- (a) any amount received in the fiscal year as, on account or in lieu of payment of, or in satisfaction of a superannuation or pension benefit;

Annuity
payments

- (b) any amount received by the corporation in the fiscal year as an annuity payment except to the extent that the payment is otherwise required to be included in computing the corporation's income for the fiscal year;

Deferred
profit
sharing plan

- (c) amounts received by the corporation in the fiscal year under a deferred profit sharing plan as provided by section 120;

Life insur-
ance policy
proceeds

- (d) amounts that the corporation became entitled to receive in the fiscal year upon the disposition of an interest in a life insurance policy, to the extent provided by section 121;

Allocations
under insur-
ance policies

- (e) amounts allocated to the corporation in the fiscal year by an insurer as provided by section 121;

Legal costs

- (f) amounts received by the corporation in the fiscal year as legal costs awarded to it by a court on an appeal in relation to an assessment of tax, interest or

penalties under this Act or the *Income Tax Act* (Canada), if with respect to that assessment an amount has been deducted or may be deductible under clause *b* of subsection 1 of section 60 in computing its income;

- (g) the amount, if any, by which any grant received by the corporation in the fiscal year to enable it to carry on research or any similar work exceeds the aggregate of expenses incurred by it in the fiscal year for the purpose of carrying on the work, other than, ^{Research grants}

(i) expenses in respect of which the corporation has been reimbursed, or

(ii) expenses that are otherwise deductible in computing the corporation's income for the fiscal year. R.S.O. 1970, c. 91, s. 17, *amended*.

(2) A payment or transfer of property made pursuant to the direction of, or with the concurrence of, a corporation to some other person for the benefit of the corporation or as a benefit that the corporation desired to have conferred on the other person shall be included in computing the corporation's income to the extent that it would be if the payment or transfer had been made to the corporation. ^{Indirect payments}
R.S.O. 1970, c. 91, s. 27 (1).

(3) For the purpose of this Part, a payment or transfer in a fiscal year of property made to the corporation or some other person for the benefit of the corporation and other persons jointly or a profit made by the corporation and other persons jointly in a fiscal year shall be deemed to have been received by the corporation in the fiscal year to the extent of the corporation's interest therein notwithstanding that there was no distribution or division thereof in that fiscal year. ^{Undistributed payments or profits}
R.S.O. 1970, c. 91, s. 27 (2).

(4) Where a person has, at any time before the end of a fiscal year, whether before or after the end of 1971, transferred or assigned to another person with whom he was not dealing at arm's length the right to an amount that would, if the right thereto had not been so transferred or assigned, be included in computing the person's income for the fiscal year because the amount would have been received or receivable by him in or in respect of the fiscal year, the amount shall be included in computing the person's income for the fiscal ^{Transfer of rights to income}

year unless the income is from property and the person has also transferred or assigned the property. R.S.O. 1970, c. 91, s. 33, *amended*.

Amount
receivable
as consid-
eration for
disposition
of resource
property

59.—(1) Where in a fiscal year a corporation disposes of,

(a) a Canadian resource property; or

(b) any right, licence or privilege described in subsection 12 of section 58 of *The Corporations Tax Act*, as it read in its application to fiscal years prior to 1972, that was acquired by the corporation,

R.S.O. 1970,
c. 91

(i) in the case of,

(A) a corporation that is a principal-business corporation within the meaning given to that expression by subsection 12 of section 63 or that was, at the time it acquired the property, such a principal-business corporation, or

(B) an association, partnership or syndicate described in subsection 4 of section 83A of the *Income Tax Act* (Canada) as it read in its application to the 1971 fiscal year,

R.S.C. 1952,
c. 148

before 1972, and

(ii) in any other case, after April 10, 1962 and before 1972,

under an agreement or other contract or arrangement described therein,

the amount receivable by the corporation as consideration for the disposition thereof shall be included in computing the corporation's income for the fiscal year, notwithstanding that the amount of any part thereof may not be received until a subsequent fiscal year. R.S.O. 1970, c. 91, s. 58 (15).

Amount
deducted
under s.
61 in pre-
ceding year

(2) There shall be included in computing a corporation's income for a fiscal year any amount in respect of,

(a) a Canadian resource property; or

- (b) any property referred to in clause *b* of subsection 1 or clause *a* of subsection 3,

that has been deducted under section 61 in computing the corporation's income for the immediately preceding fiscal year.

- (3) Where a corporation has made a disposition after 1971 of property owned by it on December 31, 1971, that, Disposition of resource property acquired before 1972

- (a) is property described in any of subclauses i to vi of clause *c* of subsection 12 of section 63 and is not property described in clause *b* of subsection 1,

the following rules apply,

- (b) the relevant percentage of the amount receivable by the corporation as consideration for the disposition thereof shall be included in computing the corporation's income for its fiscal year in which the disposition was made, notwithstanding that the amount or any part thereof may not be received until a subsequent fiscal year; and
- (c) where the corporation and the person who acquired the property were not dealing with each other at arm's length, for the purposes of this section, sections 61 and 63,
- (i) the cost to that person of the property shall be deemed to be the amount included in the corporation's income by virtue of clause *b* in respect of the disposition by the corporation of the property, and
- (ii) when that person subsequently disposes of the property or any right or interest therein, the amount receivable by that person as consideration for the disposition shall be deemed to be the relevant percentage of the amount actually receivable by that person as consideration therefor.

- (4) For the purposes of clauses *b* and *c* of subsection 3, the "relevant percentage" of any amount receivable as consideration for the disposition of property is 60 per cent plus the percentage, not exceeding 40 per cent, obtained when 5 per cent is multiplied by the number of full calendar years in the period commencing at the end of 1972 and ending with the end of the calendar year in which the disposition was made. Determination of "relevant percentage"

Interpre-
tation

(5) In this section, "Canadian resource property" has the meaning given to that expression by section 63. *New*

SUBDIVISION D—DEDUCTIONS IN COMPUTING INCOME

Other
deduc-
tions

60.—(1) There may be deducted in computing a corporation's income for a fiscal year such of the following amounts as are applicable,

Capital
element
of annuity
payments

(a) the capital element of each annuity payment, other than a superannuation or pension benefit, a payment under a registered retirement savings plan, or a payment of an annuity paid or purchased pursuant to a deferred profit sharing plan, included in computing the corporation's income for the fiscal year, that is to say,

(i) if the annuity was paid under a contract, an amount equal to that part of the payment determined in prescribed manner to have been a return of capital, and

(ii) if the annuity was paid under a will or trust, such part of the payment as can be established by the recipient not to have been paid out of the income of the estate or trust; R.S.O. 1970, c. 91, s. 23 (1) (q).

Expenses
of objec-
tion or
appeal

(b) amounts paid by the corporation in the fiscal year in respect of fees or expenses incurred in preparing, instituting or prosecuting an objection to, or an appeal in relation to, an assessment of tax, interest or penalties under this Act or the *Income Tax Act* (Canada); R.S.O. 1970, c. 91, s. 23 (1) (w).

1970-71,
c. 63 (Can.)Corpora-
tion tax

(c) all corporation taxes payable in the fiscal year by the corporation. R.S.O. 1970, c. 91, s. 23 (12).

Interpre-
tation

(2) In clause *c* of subsection 1 and in this subsection,

(a) "corporation tax" means a tax imposed by the Legislature of a province or by a municipality in the province that is declared by the regulations to be a tax on corporations, but does not include,

(i) a corporation income tax, or

(ii) any other tax declared by the regulations not to be a corporation tax;

- (b) "corporation income tax" means a tax imposed by the Parliament of Canada or by the Legislature of a province or by a municipality in the province that is declared by the regulations to be a tax of general application on the profits of corporations. R.S.O. 1970, c. 91, s. 23 (13).

61.—(1) In computing a corporation's income for a fiscal year, in this subsection referred to as the "current year", where,

Reserve in respect of consideration for disposition of resource property not receivable until subsequent year

- (a) by virtue of subsection 1 or 3 of section 59, an amount has been included in computing the corporation's income for the current year or a previous fiscal year; or
- (b) by virtue of subsection 15 or 16 of section 58 of *The Corporations Tax Act*, as it read in its application to fiscal years prior to 1972, an amount has been included in computing the corporation's income for that previous fiscal year,

R.S.O. 1970, c. 91

in respect of the disposition of any property and that amount or a part thereof is not receivable until a day that is after the end of the current year, there may be deducted as a reserve in respect of that amount the part thereof that is not receivable until a day that is after the end of the current year, not exceeding, where the property was disposed of in a fiscal year preceding the current year, any amount deducted under this subsection in respect of the disposition of the property in computing the corporation's income for the fiscal year immediately preceding the current year, and for greater certainty, no deduction may be made in respect of that amount by virtue of clause *p* of subsection 1 of section 24. R.S.O. 1970, c. 91, s. 61 (1).

(2) Subsection 1 does not apply to allow a deduction in computing the income of a corporation for a fiscal year if the corporation, at any time in the fiscal year or in the immediately following fiscal year,

Application of subs. 1

- (a) ceases to be a resident of Canada;
- (b) becomes exempt from tax under any provision of this Part; or
- (c) if a non-resident ceases to have a permanent establishment in Canada. R.S.O. 1970, c. 91, s. 61 (8).

Allowance
for oil
or gas
well, mine or
timber limit

62.—(1) There may be deducted in computing a corporation's income for a fiscal year such amount as an allowance in respect of an oil or gas well, mineral resource or timber limit, if any, as is allowed to the corporation by regulation. R.S.O. 1970, c. 91, s. 23 (2) (b).

Regulations

(2) For greater certainty it is hereby declared that, in the case of a regulation made under subsection 1 allowing to a corporation an amount in respect of an oil or gas well or a mineral resource,

- (a) there may be allowed to the corporation by such regulation an amount in respect of any or all oil or gas wells or mineral resources in which the corporation has any interest; and
- (b) notwithstanding any other provision contained in this Act, the Lieutenant Governor in Council may prescribe the formula by which the amount that may be allowed to the corporation by such regulation shall be determined. R.S.O. 1970, c. 91, s. 23 (4).

Lessee's
share of
allowance

(3) Where a deduction is allowed under subsection 1 in respect of a coal mine operated by a lessee, the lessor and lessee may agree as to what portion of the allowance each may deduct and, in the event that they cannot agree, the Minister may fix the portions. R.S.O. 1970, c. 91, s. 23 (5).

Exploration
and develop-
ment ex-
penses of
principal-
business
corporations

63.—(1) A principal-business corporation may deduct, in computing its income for a fiscal year, the lesser of,

- (a) the aggregate of such of its Canadian exploration and development expenses as were incurred by it before the end of the fiscal year, to the extent that they were not deductible in computing income for a previous fiscal year; and
- (b) of that aggregate, an amount equal to its income for the fiscal year if no deduction were allowed under this section or section 62, minus the deductions allowed for the fiscal year by subsections 2, 5 and 6 and by section 100. R.S.O. 1970, c. 91, s. 58 (5).

Expenses
of special
product
corporations

(2) A corporation, other than a principal-business corporation the principal business of which is described in subclauses i or ii of clause *f* of subsection 12, whose principal business is production or marketing of sodium chloride or potash or whose business includes manufacturing products the manufacturing of which involves processing sodium chloride or potash, may deduct, in computing its income for a fiscal year,

the drilling and exploration expenses incurred by it in the year on or in respect of exploring or drilling for halite or sylvite. R.S.O. 1970, c. 91, s. 58 (4).

(3) A corporation other than a principal-business corpora-^{Expenses of other corporations}tion may deduct, in computing its income for a fiscal year, the lesser of,

- (a) the aggregate of such of its Canadian exploration and development expenses as were incurred by it before the end of the fiscal year to the extent they were not deductible in computing its income for a previous fiscal year; and
- (b) of that aggregate, the amount, if any, by which the
 - (i) such amount as the corporation may claim, not exceeding 20 per cent of the aggregate determined under clause *a*, and
 - (ii) the aggregate of,
 - (A) its income for the fiscal year from operating an oil or gas well in Canada or from operating a mine in Canada, if the corporation had an interest in the oil or gas well, or mine, as the case may be, at any time in the fiscal year,
 - (B) its income for the fiscal year from royalties in respect of an oil or gas well in Canada or a mine in Canada, and
 - (C) the aggregate of amounts each of which is an amount, in respect of a Canadian resource property or a property referred to in clause *b* of subsection 1 of section 59 or clause *a* of subsection 3 of section 59 that has been disposed of by it, equal to the amount, if any, by which,
 - 1. the amount included in computing its income for the fiscal year by virtue of section 59 in respect of the disposition of the property,

exceeds

2. the amount deducted under section 61 in respect of the property in computing its income for the fiscal year,

if no deductions were allowed under section 62,

exceeds

- (iii) the amount of any deduction allowed by the *Corporations Tax Application Rules, 1972* in respect of this subclause in computing its income for the fiscal year. R.S.O. 1970, c. 91, s. 58 (10).

Dealers

(4) Sections 59 and 61 and subsection 3 do not apply in computing the income for a fiscal year under this Part of a corporation, other than a principal-business corporation, whose business includes trading or dealing in rights, licences or privileges to explore for, drill for or take minerals, petroleum, natural gas or other related hydrocarbons. R.S.O. 1970, c. 91, s. 58 (19).

Successor
corporation's
Canadian
exploration
and
development
expenses

(5) Where a principal-business corporation, in this subsection referred to as the "successor corporation", has, at any time after 1971, acquired from another principal-business corporation, in this subsection referred to as the "predecessor corporation", all or substantially all of the property of the predecessor corporation used by it in carrying on in Canada its principal business, there may be deducted by the successor corporation, in computing its income under this Part for a fiscal year, the lesser of,

- (a) the aggregate of the Canadian exploration and development expenses incurred by the predecessor corporation to the extent that such expenses,
 - (i) were not deductible by the successor corporation in computing its income for a previous fiscal year, and were not deductible by the predecessor corporation in computing its income for the fiscal year in which the property so acquired was acquired by the successor corporation or its income for a previous fiscal year, and
 - (ii) would have been deductible by the predecessor corporation in computing its income for the fiscal year in which the property so acquired was acquired by the successor corporation, if

the predecessor corporation's income for that fiscal year had been sufficient for the purpose; and

- (b) of that aggregate, an amount equal to such part of its income for the fiscal year if no deduction were allowed under this section, section 62 or the *Corporations Tax Application Rules, 1972* in respect of this clause, minus any deductions allowed for the fiscal year by subsections 2 and 6, section 100 and the provisions of the *Corporations Tax Application Rules, 1972* allowing a deduction for the purposes of this clause, as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells, or the production of minerals from mines, situated on property in Canada from which the predecessor corporation had, immediately before the acquisition by the successor corporation of the property so acquired, a right to take or remove petroleum or natural gas or a right to take or remove minerals,

and, in respect of any such expenses included in the aggregate determined under clause *a*, no deduction may be made under this section by the predecessor corporation in computing its income for a fiscal year subsequent to its fiscal year in which the property so acquired was acquired by the successor corporation. R.S.O. 1970, c. 91, s. 58 (23).

(6) Where a principal-business corporation, in this subsection referred to as the "second successor corporation", has at any time after 1971 acquired from a corporation, in this subsection referred to as the "first successor corporation", that was a successor corporation within the meaning of subsection 5, all or substantially all of the property of the first successor corporation used by it in carrying on in Canada its principal business, there may be deducted by the second successor corporation, in computing its income under this Part for a fiscal year, the lesser of,

- (a) the aggregate determined by adding the expenses referred to in clause *a* of subsection 5 for the purpose of determining the deduction allowable to the first successor corporation under subsection 5 in computing its income for a previous fiscal year, to the extent that such expenses,
- (i) were not deductible by the second successor corporation or any other corporation in computing its income for a previous fiscal

year, and were not deductible by the first successor corporation in computing its income for the fiscal year in which the property so acquired was acquired by the second successor corporation, and

- (ii) would, but for the provisions of clause *b* of subsection 5, have been deductible by the first successor corporation in computing its income for the fiscal year in which the property so acquired was acquired by the second successor corporation; and

- (b) of that aggregate, an amount equal to such part of its income for the fiscal year if no deduction were allowed under this section or section 62 or the *Corporations Tax Application Rules, 1972* in respect of this clause, minus any deductions allowed for the fiscal year by subsection 2, section 100 and the provisions of the *Corporations Tax Application Rules, 1972* allowing a deduction for the purposes of this clause, as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells, or the production of minerals from mines, situated on property in Canada from which the predecessor of the first successor corporation within the meaning of subsection 5 had, immediately before the acquisition by the first successor corporation of the property so acquired by the second successor corporation, a right to take or remove petroleum or natural gas or a right to take or remove minerals,

and, in respect of any such expenses included in the aggregate determined under clause *a*, no deduction may be made under this section by the first successor corporation in computing its income for a fiscal year subsequent to its fiscal year in which the property so acquired was acquired by the second successor corporation. R.S.O. 1970, c. 91, s. 58 (27).

Joint
exploration
corporation

- (7) A joint exploration corporation may in a fiscal year elect in prescribed form to renounce in favour of another corporation that is a principal-business corporation an agreed portion of the aggregate of such of the joint exploration corporation's Canadian exploration and development expenses as were incurred by it during a period, after 1971 and before the end of the fiscal year, throughout which the other corporation was a shareholder corporation, to the extent that the aggregate of such expenses exceeds any amount deductible under subsection 1 in respect thereof by the joint exploration

corporation in computing its income for any fiscal year previous to the fiscal year in which the election was made, and upon the election the said agreed portion,

- (a) shall be deemed, for the purpose of subsection 1, to be Canadian exploration and development expenses incurred by the other corporation in the fiscal year of the corporation in which the election was made; and
- (b) shall be subtracted from the aggregate described in clause a of subsection 1 in determining the amount deductible by the joint exploration corporation under subsection 1 in computing its income. R.S.O. 1970, c. 91, s. 58 (7, 8), *amended*.

(8) Where control of a corporation has, after 1971 and between a time when the corporation ceased to carry on active business and a time when it commenced to carry on active business again, been acquired by, Control change

- (a) a person; or
- (b) a person and other persons with whom that person does not deal at arm's length,

who did not control the corporation at the time when it so ceased to carry on active business, all of the Canadian exploration and development expenses incurred by the corporation before the time when it commenced to carry on active business again shall be deemed to have been deductible in computing its incomes for fiscal years ending before the time when such control was so acquired. *New*.

(9) In computing a corporation's Canadian exploration and development expenses, Computation of exploration and development expenses

- (a) there shall be deducted any amount paid to it,
 - (i) after 1971 under the *Northern Mineral Exploration Assistance Regulations* (Canada) made under an *Appropriation Act* (Canada) that provides for payments in respect of the Northern Mineral Grants Program,
 - (ii) pursuant to any agreement entered into between the corporation and Her Majesty in right of Canada under the Northern Mineral Grants Program or the Development Program of the Department of Indian Affairs and

Northern Development, to the extent that the amount has been expended by the corporation as or on account of Canadian exploration and development expenses incurred by it, or

(iii) after 1971 under the *Mineral Exploration Assistance Program* (Ontario); and

(b) there shall be included any amount, except an amount in respect of interest, paid by the corporation after 1971 under the Regulations referred to in subclause i of clause *a* to Her Majesty in right of Canada and under the *Mineral Exploration Assistance Program* (Ontario) to Her Majesty in right of Ontario. R.S.O. 1970, c. 91, s. 58 (28).

Limitation

(10) Where a corporation has incurred expenses the deduction of which from income is authorized under more than one provision of this section, the corporation is not entitled to make the deduction under more than one provision but is entitled to select the provision under which to make the deduction. R.S.O. 1970, c. 91, s. 58 (30).

Amounts
deemed
deductible
under this
Subdivision

(11) For the purposes of section 12, any amount deductible under the *Corporations Tax Application Rules, 1972* in respect of this subsection shall be deemed to be deductible under this Subdivision. *New.*

Inter-
pretation

(12) In this section,

(a) "agreed portion" in respect of a corporation that was a shareholder corporation of a joint exploration corporation means such amount as may be agreed upon between the joint exploration corporation and the shareholder corporation not exceeding,

(i) the payments referred to in subclause iii of clause *g* made by the shareholder corporation to the joint exploration corporation during the period it was a shareholder corporation of the joint corporation,

minus,

(ii) the aggregate of the amounts, if any, previously renounced by the joint exploration corporation under subsection 7 in favour of the shareholder corporation; R.S.O. 1970, c. 91, s. 58 (9) (c).

(b) "Canadian exploration and development expenses" incurred by a corporation means,

- (i) any drilling or exploration expense, including any general geological or geophysical expense, incurred by the corporation after 1971 on or in respect of exploring or drilling for petroleum or natural gas in Canada,
- (ii) any prospecting, exploration or development expense incurred by after 1971 in searching for minerals in Canada,
- (iii) the cost to the corporation of any Canadian resource property acquired by it,
- (iv) the corporation's share of the Canadian exploration and development expenses incurred after 1971 by any association, partnership or syndicate in a fiscal year thereof, if at the end of that fiscal year the corporation was a member or partner thereof, and
- (v) where the corporation is a principal-business corporation, the amount paid by it for any share or any interest therein or right thereto, to the extent that the amount was paid pursuant to an agreement under which it undertook to incur, after 1971, the cost of,

(A) drilling or exploration activities, including any general geological or geophysical activities, in or in respect of exploring or drilling for petroleum or natural gas in Canada,

(B) prospecting, exploration or development activities in searching for minerals in Canada, or

(C) acquiring a Canadian resource property,

but, for greater certainty, does not include,

- (vi) any consideration given by the corporation for any share or any interest therein or right thereto, except as provided by subclause v, or
- (vii) any cost described in subclause v, if the obligation of any other person to incur those

costs was, by virtue of subclause v, a Canadian exploration and development expense of that other person; *New*.

(c) "Canadian resource property" of a corporation means any property acquired by it after 1971 that is,

- (i) any right, licence or privilege to explore for, drill for, or take petroleum, natural gas or other related hydrocarbons in Canada,
- (ii) any right, licence or privilege to prospect, explore, drill, or mine for, minerals in a mineral resource in Canada,
- (iii) any oil or gas well situated in Canada,
- (iv) any rental or royalty computed by reference to the amount or value of production from an oil or gas well, or a mineral resource, situated in Canada,
- (v) any real property situated in Canada the principal value of which depends upon its mineral resource content, but not including any depreciable property situated on the surface of the property or used or to be used in connection with the extraction or removal of minerals therefrom, or
- (vi) any right to or interest in any property described in any of subclauses i to v; *New*.

(d) "drilling or exploration expense" incurred on or in respect of exploring or drilling for petroleum or natural gas includes,

- (i) any annual payment made for the preservation of a Canadian resource property or any property referred to in clause b of subsection 1 of section 59, and
- (ii) any expense incurred on or in respect of,
 - (A) drilling or converting a well for the disposal of waste liquids from a petroleum or natural gas well,
 - (B) drilling for water or gas for injection into a petroleum or natural gas formation, or

- (C) drilling or converting a well for the injection of water or gas to assist in the recovery of petroleum or natural gas from another well; R.S.O. 1970, c. 91, s. 58 (26).
- (e) “joint exploration corporation” means a principal-business corporation that has not at any time since its incorporation had more than ten shareholders, not including any individual holding a share for the sole purpose of qualifying as a director; *New*.
- (f) “principal-business corporation” means a corporation whose principal business is,
- (i) production, refining or marketing of petroleum, petroleum products or natural gas, or exploring or drilling for petroleum or natural gas,
 - (ii) mining or exploring for minerals,
 - (iii) processing mineral ores for the purpose of recovering metals therefrom,
 - (iv) a combination of,
 - (A) processing mineral ores for the purpose of recovering metals therefrom, and
 - (B) processing metals recovered from the ores so processed,
 - (v) fabricating metals, or
 - (vi) operating a pipeline for the transmission of oil or natural gas; and R.S.O. 1970, c. 91, s. 58 (5).
- (g) “shareholder corporation” of a joint exploration corporation means a corporation that for the period in respect of which the expression is being applied,
- (i) was a shareholder of the joint exploration corporation,
 - (ii) was a principal-business corporation, and
 - (iii) made payments to the joint exploration corporation in respect of Canadian exploration and development expenses incurred by the joint exploration corporation. R.S.O. 1970, c. 91, s. 58 (9).

SUBDIVISION E—RULES RELATING
TO COMPUTATION OF INCOME

General
limitation re
expenses

64. In computing income, no deduction shall be made in respect of an outlay or expense in respect of which any amount is otherwise deductible under this Act, except to the extent that the outlay or expense was reasonable in the circumstances. R.S.O. 1970, c. 91, s. 24 (2).

Amounts
in part
consideration
for disposition
of property

65. Where an amount can reasonably be regarded as being in part the consideration for the disposition of any property of a corporation and as being in part consideration for something else, the part of the amount that can reasonably be regarded as being the consideration for such disposition shall be deemed to be proceeds of disposition of that property irrespective of the form or legal effect of the contract or agreement, and the person to whom the property was disposed of shall be deemed to have acquired the property at the same part of that amount. R.S.O. 1970, c. 91, s. 32 (8) par. 7.

Inadequate
considera-
tions

66.—(1) Except as expressly otherwise provided in this Act,

(a) where a corporation has acquired anything from a person with whom it was not dealing at arm's length at an amount in excess of the fair market value thereof at the time it so acquired it, the corporation shall be deemed to have acquired it at that fair market value;

(b) where a corporation has disposed of anything,

(i) to a person with whom it was not dealing at arm's length for no proceeds or for proceeds less than the fair market value thereof at the time it so disposed of it, or

(ii) to any person by way of gift *inter vivos*,

it shall be deemed to have received proceeds of disposition therefor equal to that fair market value; and

(c) where a corporation has acquired property by way of gift, bequest or inheritance, it shall be deemed to have acquired the property at its fair market value at the time it so acquired it. R.S.O. 1970, c. 91, s. 28 (1, 2), *amended*.

(2) Where a corporation carrying on business in Canada ^{Idem} has paid or agreed to pay, to a non-resident person with whom it was not dealing at arm's length as price, rental, royalty or other payment for or for the use or reproduction of any property, or as consideration for the carriage of goods or passengers or for other services, an amount greater than the amount, in this subsection referred to as "the reasonable amount", that would have been reasonable in the circumstances if the non-resident person and the corporation had been dealing at arm's length, the reasonable amount shall, for the purpose of computing the corporation's income from the business, be deemed to have been the amount that was paid or is payable therefor. R.S.O. 1970, c. 91, s. 28 (3).

(3) Where a non-resident person had paid, or agreed to ^{Idem} pay, to a corporation carrying on business in Canada with whom he was not dealing at arm's length as price, rental, royalty or other payment for or for the use or reproduction of any property, or as consideration for the carriage of goods or passengers or for other services, an amount less than the amount, in this subsection referred to as "the reasonable amount", that would have been reasonable in the circumstances if the non-resident person and the corporation had been dealing at arm's length, the reasonable amount shall, for the purpose of computing the corporation's income from the business, be deemed to have been the amount that was paid or is payable therefor. R.S.O. 1970, c. 91, s. 28 (4).

(4) Where property of a corporation has been appropriated ^{Idem} in any manner whatever to, or for the benefit of, a shareholder, for no consideration or for a consideration below the fair market value, if the sale thereof at the fair market value would have increased the corporation's income for a fiscal year, for the purpose of determining the corporation's income for the fiscal year, it shall be deemed to have sold the property during the fiscal year and to have received therefor the fair market value thereof. R.S.O. 1970, c. 91, s. 28 (5).

(5) Where property of a corporation has been appropriated ^{Idem} in any manner whatever to, or for the benefit of, a shareholder, on the winding-up of the corporation, if the sale thereof at the fair market value immediately prior to the winding-up would have increased the corporation's income for a fiscal year, for the purpose of determining the corporation's income for the fiscal year, it shall be deemed to have sold the property during the fiscal year and to have received therefor the fair market value thereof. R.S.O. 1970, c. 91, s. 28 (6).

67.—(1) Where a corporation has received a security or other ^{Security in satisfaction of} right or a certificate of indebtedness or other evidence of ^{income} indebtedness wholly or partially as, in lieu of payment of, or ^{debt}

in satisfaction of, a debt that was then payable, the amount of which debt would be included in computing its income if it had been paid, the value of the security, right or indebtedness or the applicable portion thereof shall, notwithstanding the form or legal effect of the transaction, be included in computing its income for the fiscal year in which it was received. R.S.O. 1970, c. 91, s. 34 (1).

Idem

(2) Where a security or other right or a certificate of indebtedness or other evidence of indebtedness has been received by a corporation wholly or partially as, in lieu of payment of, or in satisfaction of, a debt before the debt was payable, but was not itself payable or redeemable before the day on which the debt was payable, it shall, for the purpose of subsection 1, be deemed to have been received when the debt became payable by the person holding it at that time. R.S.O. 1970, c. 91, s. 34 (2).

Idem

(3) This section is enacted for greater certainty and shall not be construed as limiting the generality of the other provisions of this Part by which amounts are required to be included in computing income. R.S.O. 1970, c. 91, s. 34 (3).

Bond
conver-
sion

68. Where a bond of a debtor is acquired by a corporation in exchange for another bond of the same debtor and,

- (a) the terms on which the bond for which it was exchanged was issued conferred upon the holder thereof the right to make the exchange; and
- (b) the amount payable to the holder of the bond on its maturity is the same as the amount that would have been payable to the holder of the bond for which it was exchanged on the maturity of that bond,

the cost of the bond so acquired and the sale price of the bond for which it was exchanged shall be deemed to be,

- (c) in the event that the bond that was exchanged was property described in an inventory of a business carried on by the corporation, the amount at which it had been valued at the end of the last complete fiscal year of the business preceding the exchange; or
- (d) in any other event, the adjusted cost base to the corporation of the bond that was exchanged, immediately before the exchange. R.S.O. 1970, c. 91, s. 35.

69.—(1) Where an amount in respect of a deductible outlay or expense that was owing by a corporation to a person with whom the corporation was not dealing at arm's length at the time the outlay or expense was incurred and at the end of the second fiscal year following the fiscal year in which the outlay or expense was incurred, is unpaid at the end of that second fiscal year, either, Unpaid amounts

- (a) the amount so unpaid shall be included in computing the corporation's income for the third fiscal year following the fiscal year in which the outlay or expense was incurred; or
- (b) where the corporation and that person have filed an agreement in prescribed form on or before the day on or before which the corporation is required by section 145 to file its return for the third succeeding fiscal year, for the purposes of this Act the following rules apply:
 - (i) the amount so unpaid shall be deemed to have been paid by the corporation and received by that person on the first day of the said third fiscal year, and section 153 of the *Income Tax Act* (Canada), except subsection 3 thereof, is applicable to the extent that it would apply if that amount were being paid to that person by the corporation, and 1970-71,
c. 63 (Can.)
 - (ii) that person shall be deemed to have made a loan to the corporation on the first day of the said third fiscal year in an amount equal to the amount so unpaid minus the amount, if any, deducted or withheld therefrom by the corporation on account of that person's tax for the said third fiscal year. R.S.O. 1970, c. 91, s. 29 (1).

(2) Where an amount in respect of a deductible outlay or expense that was owing by a corporation to a person with whom the corporation was not dealing at arm's length is unpaid at the time when the corporation is wound up, and the corporation is wound up before the end of the second fiscal year following the fiscal year in which the outlay or expense was incurred, the amount so unpaid shall be included in computing the corporation's income for the fiscal year in which it is wound up. R.S.O. 1970, c. 91, s. 29 (2). Idem

(3) Where an amount in respect of a deductible outlay or expense that was owing by a corporation to a person as salary, wages or other remuneration in respect of an office Unpaid remuneration

or employment is unpaid at the end of the first fiscal year following the fiscal year in which the outlay or expense was incurred, either,

- (a) the amount so unpaid shall be included in computing the corporation's income for the second fiscal year following the fiscal year in which the outlay or expense was incurred; or
- (b) where the corporation and that person have filed an agreement in prescribed form on or before the day on or before which the corporation is required by section 145 to file its return for the first fiscal year following the fiscal year in which the outlay or expense was incurred, for the purposes of this Act the following rules apply:
 - (i) the amount so unpaid shall be deemed to have been paid by the corporation and received by that person on the first day of the said second fiscal year, and section 153 of the *Income Tax Act* (Canada), except subsection 3 thereof, is applicable to the extent that it would apply if that amount were being paid to that person by the corporation; and
 - (ii) that person shall be deemed to have made a loan to the corporation on the first day of the said second fiscal year in an amount equal to the amount so unpaid minus the amount, if any, deducted or withheld therefrom by the corporation on account of that person's tax for the said second fiscal year. R.S.O. 1970, c. 91, s. 29 (3).

1970-71,
c. 63 (Can.)

Where
unpaid
at time
corporation
wound up

(4) Where an amount in respect of a deductible outlay or expense described in subsection 3 that was owing by a corporation is unpaid at the time when the corporation is wound up, and the corporation is wound up before the end of the first fiscal year following the fiscal year in which the outlay or expense was incurred, the amount so unpaid shall be included in computing the corporation's income for the fiscal year in which it is wound up. R.S.O. 1970, c. 91, s. 29 (4).

Application

(5) Subsection 1 does not apply in any case where subsection 3 applies and subsection 2 does not apply in any case where subsection 4 applies. R.S.O. 1970, c. 91, s. 29 (5).

Late
filing

(6) Where, in respect of an amount described in subsection 1 or 3 that was owing by a corporation to a person, an agreement in a form prescribed for the purposes of this

section is filed after the day on or before which the agreement is required to be filed for the purposes of clause *b* of subsection 1 or clause *b* of subsection 3, as the case may be, both clauses *a* and *b* of subsection 1 or 3, as the case may be, apply in respect of the said amount, except that clause *a* of subsection 1 or clause *a* of subsection 3, as the case may be, shall be read and construed as requiring 25 per cent only of the said amount to be included in computing the corporation's income. R.S.O. 1970, c. 91, s. 29 (6).

70. Where, at any time in a fiscal year, a person who,

Mortgage
foreclosures
and condi-
tional sales
repossession

- (a) was a mortgagee or other creditor of another person who had previously acquired property; or
- (b) had previously sold property to another person under a conditional sales agreement,

has acquired or reacquired the beneficial ownership of the property in consequence of the other person's failure to pay all or any part of an amount, in this section referred to as the "person's claim", owing by him to the person, the following rules apply,

- (c) there shall be included, in computing the other person's proceeds of disposition of the property, the principal amount of the person's claim plus all amounts each of which is the principal amount of any debt that had been owing by the other person, to the extent that it has been extinguished by virtue of the acquisition or reacquisition, as the case may be;
- (d) any amount paid by the other person after the acquisition or reacquisition, as the case may be, as, on account of or in satisfaction of the person's claim shall be deemed to be a loss of that other person, for his fiscal year in which payment of that amount was made, from the disposition of the property;
- (e) in computing the income of the person for the fiscal year,
 - (i) the amount, if any, claimed by him under subclause iii of clause *a* of subsection 1 of section 42 in computing his gain for the immediately preceding fiscal year from the disposition of the property, and
 - (ii) the amount, if any, deducted under clause *p* of subsection 1 of section 24 in computing the

income of the person for the immediately preceding fiscal year in respect of the property,

shall be deemed to be nil;

- (f) the person shall be deemed to have acquired or reacquired, as the case may be, the property at the amount, if any, by which the principal amount of the person's claim exceeds the amount described in subclause i or ii of clause *e*, as the case may be, in respect of the property;
- (g) the adjusted cost base to the person of the person's claim shall be deemed to be nil; and
- (h) in computing the person's income for the fiscal year or a subsequent fiscal year, no amount is deductible in respect of the person's claim by virtue of clause *n* or *r* of subsection 1 of section 24. *New.*

Debtor's
gain on
settlement
of debts

71. Where at any time in a fiscal year a debt or other obligation of a corporation to pay an amount is settled or extinguished after 1971 without any payment by it or by the payment of an amount less than the principal amount of the debt or obligation, as the case may be, the amount by which the lesser of the principal amount thereof and the amount for which the obligation was issued by the corporation exceeds the amount so paid, if any, shall be applied,

- (a) to reduce, in the following order, the corporation's,
 - (i) non-capital losses,
 - (ii) net capital losses, and
 - (iii) restricted farm losses,

for preceding fiscal years, to the extent of the amount of those losses that would otherwise be deductible in computing the corporation's taxable income for the fiscal year or a subsequent fiscal year; and

- (b) to the extent that the excess exceeds the portion thereof required to be applied as provided in clause *a*, to reduce in prescribed manner the capital cost to the corporation of any depreciable property and the adjusted cost base to it of any capital property;

unless,

- (c) the corporation is, at that time, a bankrupt within the meaning of section 108;
- (d) the debt or obligation was such that, if interest had been paid by the corporation in respect of it, no deduction would have been permitted by this Part in respect of that interest in computing the corporation's income;
- (e) section 70 is applicable in respect of the debt or obligation; or
- (f) the excess is otherwise required to be included in computing the corporation's income for the fiscal year. *New.*

72. In computing income for the purposes of this Act, no deduction may be made in respect of a disbursement or expense made or incurred in respect of a transaction or operation that, if allowed, would unduly or artificially reduce the income. R.S.O. 1970, c. 91, s. 24 (5). Artificial transaction

73.—(1) Where the result of one or more sales, exchanges, declarations of trust, or other transactions of any kind whatsoever is that a person confers a benefit on a corporation, that person shall be deemed to have made a payment to the corporation equal to the amount of the benefit conferred notwithstanding the form or legal effect of the transactions or that one or more other persons were also parties thereto; and whether or not there was an intention to avoid or evade taxes under this Act, the payment shall be included in computing the income of the corporation. R.S.O. 1970, c. 91, s. 18 (1). Indirect payment or transfer

(2) Where it is established that a sale, exchange or other transaction was entered into by a corporation and other persons dealing at arm's length *bona fide* and not pursuant to, or as part of, any other transaction and not to effect payment in whole or in part of an existing or future obligation, no party thereto shall be regarded, for the purpose of this section and for the purpose of section 72, as having conferred a benefit on a corporation that was party thereto. R.S.O. 1970, c. 91, s. 18 (2). Arm's length

74. In computing the income of a corporation for a fiscal year there shall be included an amount that is included in computing the income of the corporation under Part XVI of the *Income Tax Act* (Canada) pursuant to section 247 of that Act. R.S.O. 1970, c. 91, s. 17(o). Dividend stripping
1970-71, c. 63.
(Can.)

SUBDIVISION F—AMOUNTS NOT INCLUDED
IN COMPUTING INCOME

Amounts not
included in
income

75.—(1) There shall not be included in computing the income of a corporation for a fiscal year,

Federal
grants

(a) an amount paid to a corporation on account of a grant under the *Area Development Incentives Act* (Canada), the *Industrial Research and Development Incentives Act* (Canada), the *Regional Development Incentives Act* (Canada) or the *Employment Support Act* (Canada); R.S.O. 1970, c. 91, s. 22 (d).

War Savings
Certificate

(b) an amount received under a War Savings Certificate issued by His Majesty in right of Canada or under a similar savings certificate issued by His Majesty in right of Newfoundland before April 1, 1949; R.S.O. 1970, c. 91, s. 22 (a).

Ship or
aircraft
of non-
residents

(c) the income for the fiscal year of a non-resident corporation earned in Canada from the operation by it of a ship or aircraft in international traffic, if the country where that corporation resided grants substantially similar relief for the fiscal year to a corporation resident in Canada; R.S.O. 1970, c. 91, s. 22 (b).

Prospecting

(d) an amount in respect of the receipt of a share that section 37 provides is not to be included; R.S.O. 1970, c. 91, s. 22 (c).

Interest on
certain bonds
and
debentures

(e) interest received by a corporation resident in Canada, in this clause referred to as the “parent corporation”, on a bond, debenture, bill, note, mortgage, hypothec or similar obligation received by it as consideration for the disposition by it, before June 18, 1971, of,

(i) a business carried on by it in a country other than Canada, or

(ii) all of the shares of a corporation that carried on a business in a country other than Canada, and such of the debts and other obligations of that corporation as were, immediately before the disposition, owing to the parent corporation,

if,

(iii) the business was of a public utility or public service nature,

- (iv) the business or the property described in sub-clause ii, as the case may be, was disposed of to a person or persons resident in that country, and
- (v) the obligation received by the parent corporation was issued by or guaranteed by the government of that country or any agent thereof. *New.*

(2) (a) Subject to the prescribed conditions, there shall not be included in computing the income of a corporation income derived from the operation of a mine during the period of thirty-six months commencing with the day on which the mine came into production. R.S.O. 1970, c. 91, s. 57 (4). Exemption
for three
years

(b) In clause a,

Interpre-
tation

- (i) "mine" does not include an oil well, gas well, brine well, sand pit, gravel pit, clay pit, shale pit or stone quarry, other than a deposit of oil shale or bituminous sand, but does include a well for the extraction of material from a sylvite deposit and all such wells, the material produced from which is sent to a single plant for processing, shall be deemed to be one mine, and
- (ii) "production" means production in reasonable commercial quantities. R.S.O. 1970, c. 91 s. 57 (5).

SUBDIVISION G—CORPORATIONS RESIDENT IN CANADA AND THEIR SHAREHOLDERS

76.—(1) In computing the income of a corporation for a fiscal year, there shall be included all amounts received by the corporation in the fiscal year from corporations resident in Canada as, on account or in lieu of payment of, or in satisfaction of taxable dividends. R.S.O. 1970, c. 91, s. 17 (a). Taxable
dividends
received

(2) Where, by virtue of subsection 4 of section 58, there is included in computing the corporation's income for a fiscal year a dividend received by some other person, for the purposes of this section and section 100, the dividend shall be deemed to have been received by the corporation. *New* Certain
dividends
deemed
received
by corpora-
tion

77.—(1) Where at any particular time after 1971 a dividend becomes payable by a Canadian corporation to shareholders of any class of shares of its capital stock, Dividend
out of
tax-paid
undistributed
surplus or
1971 capital
surplus

1970-71, c. 63
(Can.)

- (a) such dividend shall be deemed to be payable out of the corporation's tax-paid undistributed surplus on hand or out of its 1971 capital surplus on hand to the extent and in the same manner that such dividend is deemed to be payable out of the corporation's tax-paid undistributed surplus on hand or 1971 capital surplus on hand, as the case may be, for purposes of subsection 1 of section 83 of the *Income Tax Act* (Canada);
- (b) no part of the dividend shall be included in computing the income of any shareholder of the corporation; and
- (c) in computing the adjusted cost base to any shareholder of the corporation of any share of the capital stock of the corporation owned by him, there shall be deducted in respect of the dividend an amount as provided by subclause i of clause a of subsection 2 of section 55.

Capital
dividend

(2) Where at any particular time after 1971 a dividend becomes payable by a private corporation to shareholders of any class of shares of its capital stock,

- (a) the dividend shall be deemed to be a capital dividend to the extent required by subsection 2 of section 83 of the *Income Tax Act* (Canada); and
- (b) no part of the dividend shall be included in computing the income of any shareholder of the corporation.
New.

Deemed
dividend

78.—(1) Where a corporation resident in Canada has at any time after 1971 increased the paid-up capital in respect of the shares of any particular class of its capital stock, otherwise than by,

- (a) payment of a stock dividend;
- (b) a transaction by which,
 - (i) the value of its assets less its liabilities has been increased, or
 - (ii) its liabilities less the value of its assets have been decreased,

by an amount not less than the amount of the increase in the paid-up capital in respect of the shares of the particular class; or

- (c) a transaction by which the paid-up capital in respect of the shares of all other classes of its capital stock has been reduced by an amount not less than the amount of the increase in the paid-up capital in respect of the shares of the particular class,

the corporation shall be deemed to have paid at that time a dividend on the issued shares of the particular class equal to the amount, if any, by which the amount of the increase in the paid-up capital exceeds the aggregate of,

- (d) the amount, if any, of the increase referred to in subclause i of clause *b* or the decrease referred to in subclause ii of clause *b*, as the case may be; and
- (e) the amount, if any, of the reduction referred to in clause *c*,

and a dividend shall be deemed to have been received at that time by each person who held any of the issued shares of the particular class immediately after that time equal to that proportion of the dividend so deemed to have been paid by the corporation that the number of the shares of the particular class held by him immediately after that time is of the number of the issued shares of that class outstanding immediately after that time. R.S.O. 1970, c. 91, s. 55 (7).

(2) Where funds or property of a corporation resident in Canada have at any time after 1971 been distributed or otherwise appropriated in any manner whatever to or for the benefit of the shareholders of any class of shares in its capital stock, on the winding-up, discontinuance or reorganization of its business, the corporation shall be deemed to have paid at that time a dividend on shares of that class equal to the amount, if any, by which,

Distributions
on winding-
up, etc.

- (a) the amount or value of the funds or property distributed or appropriated, as the case may be,

exceeds the lesser of,

- (b) the amount, if any, by which the paid-up capital in respect of the shares of that class immediately before that time is reduced on the distribution or appropriation, as the case may be; and
- (c) the paid-up capital limit of the corporation immediately before that time,

and a dividend shall be deemed to have been received at that time by each person who held any of the issued shares at that

time equal to that proportion of the amount of the excess that the number of the shares of that class held by him immediately before that time is of the number of the issued shares of that class outstanding immediately before that time. R.S.O. 1970, c. 91, s. 55 (1).

Redemption,
etc.

(3) Where at any time after 1971 a corporation resident in Canada has redeemed, acquired or cancelled in any manner whatever, otherwise than by way of a transaction described in subsection 2, any of the shares of any class of its capital stock, the corporation shall be deemed to have paid at that time a dividend on a class of shares comprising the shares so redeemed, acquired or cancelled, equal to,

1970-71, c. 63
(Can.)

- (a) in the case of any such shares in respect of the redemption or acquisition of which the corporation is required to pay tax under section 182 of the *Income Tax Act* (Canada), the amount, if any, by which the paid-up capital in respect of those shares immediately before that time exceeds the paid-up capital limit of the corporation immediately before that time; and
- (b) in the case of any other such shares, the amount, if any, by which the amount paid by the corporation on the redemption, acquisition or cancellation, as the case may be, of those shares exceeds the lesser of,
 - (i) the paid-up capital in respect of those shares immediately before that time, and
 - (ii) the amount, if any, by which the paid-up capital limit of the corporation immediately before that time exceeds the amount that was its paid-up capital in respect of the shares referred to in clause *a* so redeemed, acquired or cancelled at that time,

and a dividend shall be deemed to have been received at that time by each person who held any of those shares at that time equal to the aggregate of,

- (c) that proportion of the excess referred to in clause *a* that the number of those shares held by him immediately before that time and described in that clause is of the total number of those shares described in that clause; and
- (d) that proportion of the excess referred to in clause *b* that the number of those shares held by him immediately before that time and not described in

clause *a* is of the total number of those shares not described in that clause. R.S.O. 1970, c. 91, s. 55 (2).

(4) Where at any time after 1971 a corporation resident in Canada has reduced the paid-up capital in respect of any shares of any class of its capital stock otherwise than by way of a redemption, acquisition or cancellation of those shares or a transaction described in subsection 2,

Reduction
of paid-up
capital

(a) the corporation shall be deemed to have paid at that time a dividend on shares of that class equal to the amount, if any, by which the amount paid by it on the reduction of the paid-up capital exceeds the paid-up capital limit of the corporation immediately before that time; and

(b) a dividend shall be deemed to have been received at that time by each person who held any of the issued shares at that time equal to that proportion of the amount of the excess referred to in clause *a* that the number of the shares of that class held by him immediately before that time is of the number of the issued shares of that class outstanding immediately before that time.

(5) Where,

Amount
distributed
or paid
where a
share

(a) the amount of the property distributed or appropriated by a corporation as described in clause *a* of subsection 2; or

(b) the amount paid by a corporation as described in clause *b* of subsection 3 or clause *a* of subsection 4,

includes a share of the capital stock of the corporation, for the purposes of subsections 2 to 4 the following rules apply:

(c) in computing that amount at any time, the share shall be valued at an amount equal to the paid-up capital in respect of the share at that time; and

(d) the value of the share shall be included in computing the paid-up capital limit of the corporation immediately before that time.

(6) Subsection 2 or 3, as the case may be, is not applicable,

Application
of subs. 2 or 3

(a) in respect of any transaction or event, if subsection 1 is applicable in respect of that transaction or event; and

- (b) in respect of any purchase by a corporation of any of its shares in the open market, if the corporation acquired those shares in the manner in which shares would normally be purchased by any member of the public in the open market.

When
dividend
payable

(7) A dividend that is deemed by this section to have been paid at a particular time shall be deemed, for the purposes of this Subdivision, to have become payable at that time.
New.

Transfer of
property to
corporation
by control-
ling
shareholder

79.—(1) Where a person has, after 1971, disposed of any property that was a capital property or eligible capital property of the person to a Canadian corporation, and immediately after the disposition owned not less than 80 per cent of the issued shares of each class of the capital stock of the corporation, if the person and the corporation have jointly so elected in prescribed form and within prescribed time the following rules apply:

- (a) the amount that the person and the corporation have agreed upon in their election in respect of the property shall be deemed to be the person's proceeds of disposition of the property and the corporation's cost of the property;
- (b) subject to clause c, where the amount that the person and the corporation have agreed upon in their election in respect of the property is less than the fair market value, at the time of the disposition, of the consideration therefor, other than any shares of the capital stock of the corporation or a right to receive any such shares, received by the person, the amount so agreed upon shall, irrespective of the amount actually so agreed upon by them, be deemed to be an amount equal to that fair market value;
- (c) where the amount that the person and the corporation have agreed upon in their election in respect of the property is greater than the fair market value, at the time of the disposition, of the property so disposed of, the amount so agreed upon shall, irrespective of the amount actually so agreed upon, be deemed to be an amount equal to that fair market value;
- (d) where the property was eligible capital property in respect of a business of the person and the amount that, but for this clause, would be the proceeds of disposition thereof is less than the least of,

- (i) twice the person's cumulative eligible capital in respect of the business immediately before disposition,
- (ii) the cost to the person of the property, and
- (iii) the fair market value of the property at the time of disposition,

the amount agreed upon by the person and the corporation in their election in respect of the property shall, irrespective of the amount actually so agreed upon by them, and notwithstanding clauses *b* and *c*, be deemed to be the least of the amounts described in subclauses i to iii inclusive;

- (e) where the property was depreciable property of a prescribed class of the person and the amount that, but for this clause, would be the proceeds of disposition thereof is less than the least of,

- (i) the undepreciated capital cost to the person of all property of that class immediately before the disposition,
- (ii) the cost to the person of the property, and
- (iii) the fair market value of the property at the time of the disposition,

the amount agreed upon by the person and the corporation in their election in respect of the property shall, irrespective of the amount actually so agreed upon by them, and notwithstanding clauses *b* and *c*, be deemed to be the least of the amounts described in subclauses i to iii inclusive;

- (f) the cost to the person of any particular property, other than shares of the capital stock of the corporation or a right to receive any such shares, received by him as consideration for the disposition shall be deemed to be an amount equal to the lesser of,

- (i) the fair market value of the particular property at the time of the disposition, and
- (ii) that proportion of the fair market value, at the time of the disposition, of the property disposed of by the person to the corporation that,

- (A) the amount determined under sub-clause i is of,
 - (B) the fair market value, at the time of the disposition, of all properties, other than shares of the capital stock of the corporation or a right to receive any such shares, received by the person as consideration for the disposition;
- (g) the cost to the person of any preferred shares of any class of the capital stock of the corporation receivable by him as consideration for the disposition shall be deemed to be the lesser of the fair market value of those shares immediately after the disposition and that proportion of the amount, if any, by which the proceeds of the disposition exceed the fair market value of the consideration, other than shares of the capital stock of the corporation or a right to receive any such shares, received by him for the disposition, that,
- (i) the fair market value, immediately after the disposition, of those preferred shares of that class,
- is of,
- (ii) the fair market value, immediately after the disposition, of all preferred shares of the capital stock of the corporation receivable by him as consideration for the disposition;
- (h) the cost to the person of any common shares of any class of the capital stock of the corporation receivable by him as consideration for the disposition shall be deemed to be that proportion of the amount, if any, by which the proceeds of the disposition exceed the aggregate of the fair market value, at the time of the disposition, of the consideration, other than shares of the capital stock of the corporation or a right to receive any such shares, received by him for the disposition and the cost to him of all preferred shares of the capital stock of the corporation receivable by him as consideration for that disposition, that,
- (i) the fair market value, immediately after the disposition, of those common shares of that class,

is of,

- (ii) the fair market value, immediately after the disposition, of all common shares of the capital stock of the corporation receivable by him as consideration for the disposition; and
 - (i) for greater certainty, where the application of this subsection results in a capital loss of the person from the disposition of any property, subsection 4 is applicable. *New.*
- (2) Where, after 1971,
- (a) any partnership property that was a capital property or eligible capital property of a partnership has been disposed of to a Canadian corporation; Transfer of
property to
corporation
from
partnership
 - (b) immediately after the disposition, not less than 80 per cent of the issued shares of each class of the capital stock of the corporation was partnership property; and
 - (c) the corporation and all the members of the partnership have so elected in respect of the disposition, in prescribed form and within prescribed time,

clauses *a* to *i* of subsection 1 are applicable in respect of the disposition *mutatis mutandis* as if the partnership were a person resident in Canada who had disposed of the property to the corporation. *New.*

- (3) Where,
- (a) in respect of any disposition of partnership property of a partnership to a corporation, subsection 2 applies; Where
partnership
wound up
 - (b) the affairs of the partnership were wound up within sixty days after the disposition; and
 - (c) immediately before the winding-up there was no partnership property other than money or property received from the corporation as consideration for the disposition,

the following rules apply:

- (d) the cost to any member of the partnership of any property, other than shares of the capital stock of the corporation or a right to receive any such shares,

received by him as consideration for the disposition of his partnership interest on the winding-up shall be deemed to be the fair market value of the property at the time of the winding-up;

(e) the cost to any member of the partnership of any preferred shares of any class of the capital stock of the corporation receivable by him as consideration for the disposition of his partnership interest on the winding-up shall be deemed to be,

(i) where any common shares of the capital stock of the corporation were also receivable by him as consideration for disposition of the interest, the lesser of,

(A) the fair market value, immediately after the winding-up, of the preferred shares of that class so receivable by him, and

(B) that proportion of the amount, if any, by which the adjusted cost base to him of his partnership interest immediately before the winding-up exceeds the aggregate of the fair market value, at the time of the winding-up, of the consideration, other than shares of the capital stock of the corporation or a right to receive any such shares, received by him for the disposition of the interest, that,

1. the fair market value, immediately after the winding-up, of the preferred shares of that class so receivable by him,

is of,

2. the fair market value, immediately after the winding-up, of all preferred shares of the capital stock of the corporation receivable by him as consideration for the disposition, and

(ii) in any other case, the amount determined under sub-subclause B of subclause i;

(f) the cost to any member of the partnership of any common shares of any class of the capital stock of the corporation receivable by him as consideration for

the disposition of his partnership interest on the winding-up shall be deemed to be that proportion of the amount, if any, by which the adjusted cost base to him of his partnership interest immediately before the winding-up exceeds the aggregate of the fair market value, at the time of the winding-up, of the consideration, other than shares of the capital stock of the corporation or a right to receive any such shares, received by him for the disposition of the interest and the cost to him of all preferred shares of the capital stock of the corporation receivable by him as consideration for the disposition of the interest, that,

- (i) the fair market value, immediately after the winding-up, of the common shares of that class so receivable by him,

is of,

- (ii) the fair market value, immediately after the winding-up, of all common shares of the capital stock of the corporation so receivable by him as consideration for the disposition; and
- (g) the proceeds of disposition of the partnership interest of any member of the partnership shall be deemed to be the cost to him of all shares and property receivable or received by him as consideration for the disposition of the interest plus the amount of any money received by him as consideration for the disposition. *New.*

(4) Where a person has, after 1971, disposed of any capital property of the person to a corporation that, immediately after the disposition, was controlled, directly or indirectly in any manner whatever, by the person or by another person or group of persons by whom the first person was controlled directly or indirectly in any manner whatever, and, but for this subsection, the first person would have had a capital loss therefrom, the following rules apply:

Where capital loss from disposition of property to controlled corporation

- (a) his capital loss therefrom otherwise determined shall be deemed to be nil;
- (b) where, immediately after the disposition, the person owned any common shares of any class of the capital stock of the corporation, in computing the adjusted cost base to him of all common shares of that class owned by him immediately after the disposition

there shall be added that proportion of the amount, if any, by which the adjusted cost base to him, immediately before the disposition, of the property so disposed of exceeds his proceeds of the disposition, that,

- (i) the fair market value, immediately after the disposition, of all common shares of that class so owned by him,

is of,

- (ii) the fair market value, immediately after the disposition, of all common shares of the capital stock of the corporation owned by him immediately after the disposition; and
- (c) where, immediately after the disposition, the person owned no common shares of any class of the capital stock of the corporation, in computing the adjusted cost base to him of all preferred shares of any class of the capital stock of the corporation owned by him at that time, there shall be added that proportion of the amount, if any, by which the adjusted cost base to him, immediately before the disposition, of the property so disposed of exceeds his proceeds of the disposition, that,
 - (i) the fair market value, immediately after the disposition, of all preferred shares of that class so owned by him,

is of,

- (ii) the fair market value, immediately after the disposition, of all preferred shares of the capital stock of the corporation owned by him immediately after the disposition. *New.*

Rules where depreciable property transferred to controlled corporation

(5) Where subsection 1 or 2 has been applicable in respect of any disposition of any depreciable property to a corporation, in this subsection referred to as the "transferee", and the capital cost to the transferor of the property exceeds the transferor's proceeds of the disposition, for the purposes of sections 17 and 24 and any regulations made under clause *a* of subsection 1 of section 24,

- (a) the capital cost of the property to the transferee shall be deemed to be the amount that was the capital cost thereof to the transferor; and

- (b) the excess shall be deemed to have been allowed to the transferee in respect of the property under regulations made under clause *a* of subsection 1 of section 24 in computing income for fiscal years before the acquisition by the transferee of the property. R.S.O. 1970, c. 91, s. 32 (3).

80.—(1) Where in the course of a reorganization of the capital of a corporation, a person has, after 1971, disposed of, and the corporation has acquired, category A shares of any class of the capital stock of the corporation, the following rules apply,

Disposition of shares by a shareholder in course of reorganization of capital

- (a) the cost to the person of any property, other than shares of the capital stock of the corporation or a right to receive any such shares, received by him as consideration for the disposition shall be deemed to be its fair market value at the time of the disposition;
- (b) the cost to the person of any category B shares of any class of the capital stock of the corporation receivable by him as consideration for the disposition shall be deemed to be,

- (i) where category A shares were also receivable by him as consideration for the disposition, the lesser of,

(A) the fair market value, immediately after the disposition, of those category B shares of that class, and

(B) that proportion of the amount, if any, by which the adjusted cost base to him, immediately before the disposition, of the category A shares so disposed of exceeds the fair market value of the consideration for the disposition, other than shares of the capital stock of the corporation or a right to receive any such shares, received by him from the corporation, that,

1. the fair market value, immediately after the disposition, of those category B shares of that class,

is of,

2. the fair market value, immediately after the disposition, of all category B shares of the capital stock of the corporation receivable by him as consideration for the disposition, and
 - (ii) in any other case, the amount determined under sub-subclause B of subclause i;
- (c) the cost to the person of any category A shares of any class of the capital stock of the corporation receivable by him as consideration for the disposition shall be deemed to be that proportion of the amount, if any, by which the adjusted cost base to him, immediately before the disposition, of the category A shares so disposed of exceeds the aggregate of the fair market value of the consideration, other than shares of the capital stock of the corporation or a right to receive any such shares, received by him from the corporation as consideration for the disposition and the cost to him of all category B shares of the capital stock of the corporation receivable by him as consideration for the disposition, that,
 - (i) the fair market value, immediately after the disposition, of the category A shares of that class receivable by him as consideration for the disposition,

is of,

- (ii) the fair market value, immediately after the disposition, of all category A shares of the capital stock of the corporation receivable by him as consideration for the disposition; and
- (d) his proceeds of the disposition of the shares shall be deemed to be the cost to him of all shares and other property receivable or received by him as consideration for the disposition of the shares plus the amount of any money received by him on the disposition. *New.*

Interpre-
tation

(2) For the purposes of this section,

- (a) "category A share" means a common share where the person has disposed of a common share in the course of a reorganization, and means a preferred

share where the person has disposed of a preferred share in the course of a reorganization; and

- (b) "category B share" means a preferred share where a category A share means a common share, and means a common share where a category A share means a preferred share. *New.*

(3) This section is not applicable in any case where any of ^{Application} subsections 1 to 3 of section 79 are applicable. *New.*

81.—(1) In this section, an amalgamation means a merger ^{Amalgama-} of two or more corporations each of which was, immediately before the merger, a Canadian corporation, each of which corporations is referred to in this section as a "predecessor corporation", to form one corporate entity, in this section referred to as the "new corporation", in such manner that,

- (a) all of the property of the predecessor corporations immediately before the merger becomes property of the new corporation by virtue of the merger;
- (b) all of the liabilities of the predecessor corporations immediately before the merger become liabilities of the new corporation by virtue of the merger; and
- (c) all of the shareholders, except any predecessor corporation, of the predecessor corporations immediately before the merger become shareholders of the new corporation by virtue of the merger,

otherwise than as a result of the acquisition of property of one corporation by another corporation, pursuant to the purchase of such property by the other corporation or as a result of the distribution of such property to the other corporation upon the winding-up of the corporation. R.S.O. 1970, c. 91, s. 66 (1).

(2) Where there has been an amalgamation of two or ^{Rules} more corporations after 1971 the following rules apply, ^{applicable}

- (a) for the purposes of this Act, the corporate entity ^{Fiscal} formed as a result of the amalgamation shall be deemed to be a new corporation the first ^{year} fiscal year of which shall be deemed to have commenced at the time of the amalgamation, and a fiscal year of a predecessor corporation that would otherwise have ended after the amalgamation shall be deemed to have ended immediately before the amalgamation; R.S.O. 1970, c. 91, s. 66 (2) par. 1.

Inventory

(b) for the purpose of computing the income of the new corporation for its first fiscal year, where the property described in the inventory, if any, of the new corporation at the commencement of that fiscal year includes,

- (i) property that was described in the inventory of a predecessor corporation at the end of the fiscal year of the predecessor corporation that ended immediately before the amalgamation, which fiscal year of a predecessor corporation is referred to in this section as its "last fiscal year", or
- (ii) property that would have been described in the inventory of the predecessor corporation at the end of its last fiscal year if its income for that fiscal year had not been computed in accordance with the method authorized by subsection 1 of section 31,

the property so included shall be deemed to have been acquired by the new corporation at the commencement of its first fiscal year for an amount determined in accordance with section 15 as the value thereof for the purpose of computing the income of the predecessor corporation for its last fiscal year, except that where the income of the predecessor corporation for its last fiscal year was computed in accordance with the method authorized by subsection 1 of section 31, the amount so determined shall be deemed to be nil; R.S.O. 1970, c. 91, s. 66 (2) par. 2.

Method
adopted
for com-
puting
income

(c) where the method adopted by the new corporation for computing its income for a fiscal year from a business is not the same as the method adopted by a predecessor corporation for computing its income for its last fiscal year or a previous fiscal year, in computing the income of the new corporation for that fiscal year from the business,

- (i) there shall be included any amount received by it in that fiscal year in payment of or on account of a debt owing to the predecessor corporation that would, if it had been received by the predecessor corporation in its last fiscal year, have been included in computing the income of the predecessor corporation for that fiscal year, and

- (ii) there may be deducted any amount paid by it in that fiscal year in payment of or on account of a debt owing by the predecessor corporation that would, if it had been paid by the predecessor corporation in its last fiscal year, have been deductible in computing the income of the predecessor corporation for that fiscal year; R.S.O. 1970, c. 91, s. 66 (2) par. 3.
- (d) for the purposes of sections 17 and 24 and any ^{Depre-}regulations made under clause *a* of subsection 1 of ^{ciable}property section 24,
- (i) where depreciable property of a prescribed class has been acquired by the new corporation from a predecessor corporation, the capital cost of the property to the new corporation shall be deemed to be the amount that was the capital cost thereof to the predecessor corporation, and
 - (ii) in determining the undepreciated capital cost to the new corporation of depreciable property of a prescribed class at any time,
 - (A) there shall be added to the capital cost to the new corporation of depreciable property of that class acquired before that time the undepreciated capital cost to each of the predecessor corporations of property of that class immediately before the amalgamation,
 - (B) there shall be subtracted from the capital cost to the new corporation of depreciable property of that class acquired before that time the capital cost to the new corporation of property of that class acquired by virtue of the amalgamation,
 - (C) a reference in subclause ii of clause *a* of subsection 4 of section 17 to amounts that would have been allowed to a corporation in respect of transferred property, at the rate that was allowed to the corporation in respect of property of a prescribed class, shall be construed as including a reference to amounts that would have been allowed to a prede-

cessor corporation in respect of that property at the rate that was allowed to the predecessor corporation in respect of property of that prescribed class, and

- (D) where depreciable property that is deemed by subsection 6 of section 39 to be a separate prescribed class has been acquired by the new corporation from a predecessor corporation, the property shall continue to be deemed to be of that same separate prescribed class; R.S.O. 1970, c. 91, s. 66 (2) par. 4.

Capital
property

- (e) where any capital property, other than depreciable property, has been acquired by the new corporation from a predecessor corporation, the cost of the property to the new corporation shall be deemed to be the amount that was the adjusted cost base thereof to the predecessor corporation immediately before the amalgamation; *New*.

Cumulative
eligible
capital

- (f) for the purposes of computing the cumulative eligible capital of the new corporation at any time in respect of a business, where a predecessor corporation carried on a business that is carried on by the new corporation the amount of the cumulative eligible capital of the predecessor corporation immediately before the amalgamation in respect of that business shall be added to the amount determined under subclause i of clause *a* of subsection 4 of section 18 in respect thereof; *New*.

Reserves

- (g) for the purpose of computing the income of the new corporation for a fiscal year,
- (i) any amount that has been deducted as a reserve in computing the income of a predecessor corporation for its last fiscal year shall be deemed to have been deducted as a reserve in computing the income of the new corporation for a fiscal year immediately preceding its first fiscal year, and
 - (ii) any amount deducted under clause *r* of subsection 1 of section 24 in computing the income of a predecessor corporation for its last fiscal year or a previous fiscal year shall be deemed to have been deducted thereunder in comput-

ing the income of the new corporation for a fiscal year immediately preceding its first fiscal year; R.S.O. 1970, c. 91, s. 66 (2) par. 5.

- (h) for the purpose of computing a deduction from the ^{Debts} income of the new corporation for a fiscal year under clause *n* or *r* of subsection 1 of section 24 or section 35, where any debt owing to a predecessor corporation,
- (i) that was included in computing the income of the predecessor corporation for its last fiscal year or a previous fiscal year, or
 - (ii) that arose from a loan made in the ordinary course of business by the predecessor corporation, part of whose ordinary business was the lending of money,

has, by virtue of the amalgamation, been acquired by the new corporation, the amount thereof shall be deemed to be a debt owing to the new corporation that was included in computing the income of the new corporation for a previous fiscal year or that arose from a loan so made by it, as the case may be; R.S.O. 1970, c. 91, s. 66 (2) par. 6.

- (i) for the purpose of computing a deduction from the ^{Special reserve} income of the new corporation for a fiscal year under clause *p* of subsection 1 of section 24, any amount included in computing the income of a predecessor corporation from a business for its last fiscal year or a previous fiscal year in respect of property sold in the course of the business shall be deemed to have been included in computing the income of the new corporation from the business for a previous fiscal year in respect thereof; R.S.O. 1970, c. 91, s. 66 (2) par. 10.
- (j) for the purpose of computing a deduction from the ^{Idem} income of the new corporation for a fiscal year under clause *o* of subsection 1 of section 24 or section 34, any amount included in computing the income of a predecessor corporation from a business for its last fiscal year or a previous fiscal year by virtue of clause *a* of subsection 1 of section 16 shall be deemed to have been included in computing the income of the new corporation from the business for a previous fiscal year by virtue thereof; R.S.O. 1970, c. 91, s. 66 (2) par. 14.

Scientific
research

- (k) for the purpose of section 39, any expenditure of a capital nature on scientific research made by a predecessor corporation in its last fiscal year or a previous fiscal year that would have been deductible by the predecessor corporation by virtue of clause *b* of subsection 1 of section 39 in computing its income for its last fiscal year shall, to the extent that such expenditure was not deducted by the predecessor corporation, be deemed to be an expenditure of a capital nature on scientific research made in Canada by the new corporation in its first fiscal year; R.S.O. 1970, c. 91, s. 66 (2) par. 11.

Proceeds
not due
until
after
end of
year

- (l) for the purpose of computing the income of the new corporation for its first fiscal year and any subsequent fiscal year, any amount claimed under subclause iii of clause *a* of subsection 1 of section 42 in computing a predecessor corporation's gain for its last fiscal year from the disposition of any property shall be deemed,

- (i) to have been claimed under that subclause in computing the new corporation's gain for a fiscal year immediately preceding its first fiscal year from the disposition of that property by it before its first fiscal year, and

- (ii) to be the amount determined under subclause *i* of clause *a* of subsection 1 of section 42 in respect of that property; *New*.

Outlays
made
pursuant
to
warranty

- (m) for the purpose of section 44, any outlay or expense made or incurred by the new corporation in a fiscal year, pursuant to or by virtue of an obligation described in that section incurred by a predecessor corporation, that would, if the outlay or expense had been made or incurred by the predecessor corporation in that fiscal year, have been deemed to be a loss of the predecessor corporation for that fiscal year from the disposition of a capital property shall be deemed to be a loss of the new corporation for that fiscal year from the disposition of a capital property; *New*.

Expiry
of options
previously
granted

- (n) for the purpose of subsection 2 of section 51 any option granted by a predecessor corporation that expires after the amalgamation shall be deemed to have been granted by the new corporation, and any proceeds received by the predecessor corporation for the granting of the option shall be deemed to have been received by the new corporation therefor; *New*.

(o) for the purpose of computing a deduction from the income of the new corporation for a fiscal year under section 61, any amount that has been included in computing the income of a predecessor corporation for its last fiscal year or a previous fiscal year by virtue of subsection 1 or 3 of section 59, or by virtue of subsection 15 or 16 of section 58 of *The Corporations Tax Act* as it read in its application to fiscal years prior to 1972, shall be deemed to have been included in computing the income of the new corporation for a previous fiscal year by virtue thereof; *New*.

Consideration
for resource
property
disposition

R.S.O. 1970,
c. 91

(p) for the purpose of computing the tax-paid undistributed surplus on hand of the new corporation at any time, where a predecessor corporation had tax-paid undistributed surplus on hand immediately before the amalgamation the amount thereof shall be added to the aggregate of the amounts determined under subclause i to iii of clause *k* of subsection 1 of section 83; *New*.

Tax-paid
undistri-
buted
surplus
on hand

(q) for the purpose of computing the 1971 capital surplus on hand of the new corporation at any time, there shall be added to the aggregate of the amounts determined under subclauses i to iv of clause *l* of subsection 1 of section 83 the amount, if any, by which,

1971
capital
surplus
on hand

(i) the aggregate of amounts each of which is the 1971 capital surplus on hand, if any, of a predecessor corporation immediately before the amalgamation,

exceeds,

(ii) the aggregate of amounts each of which is the paid-up capital deficiency, if any, of a predecessor corporation immediately before the amalgamation; *New*.

(r) for the purpose of computing the paid-up capital deficiency of the new corporation at any time, there shall be added to the aggregate of the amounts determined under subclauses i to iv of clause *d* of subsection 1 of section 83 the amount, if any, by which,

Paid-up
capital
deficiency

(i) the aggregate of amounts each of which is the paid-up capital deficiency, if any, of a

predecessor corporation immediately before the amalgamation,

exceeds,

- (ii) the aggregate of amounts each of which is the 1971 capital surplus on hand, if any, of a predecessor corporation immediately before the amalgamation; *New*.

Idem

- (s) for the purpose of computing the 1971 capital surplus on hand or the paid-up capital deficiency, as the case may be, of the new corporation, in determining any amount under subclause ii or vii of clause *l* of subsection 1 of section 83 any capital property owned by a predecessor corporation on December 31, 1971 that was acquired by the new corporation by virtue of the amalgamation shall be deemed to have been acquired by the new corporation before 1972 at an actual cost to it equal to the actual cost of the property to the predecessor corporation; *New*.

Charitable donations

- (t) for the purposes of clauses *a* and *b* of subsection 1 of section 98, gifts made by a predecessor corporation in its last fiscal year shall, to the extent that they were not deductible in computing its taxable income for that fiscal year, be deemed to have been made by the new corporation in a fiscal year immediately preceding its first fiscal year; R.S.O. 1970, c. 91, s. 66 (2) par. 7.

Losses

- (u) for the purpose of section 99, a non-capital loss, net capital loss or restricted farm loss of a predecessor corporation for a fiscal year is not deductible in computing the taxable income of the new corporation; R.S.O. 1970, c. 91, s. 66 (2) par. 8.

Taxable dividends

- (v) for the purposes of subsections 3 and 4 of section 100, where a share owned by a predecessor corporation has, by virtue of the amalgamation, been acquired by the new corporation any taxable dividend received on the share by the predecessor corporation that was deductible from the predecessor corporation's income for a fiscal year under section 100 shall be deemed to be a taxable dividend received by the new corporation that was deductible from the new corporation's income for a fiscal year under section 100; *New*.

Capital dividend account

- (w) in the case of a new corporation that is a private corporation, for the purposes of computing the

capital dividend account of the new corporation at any particular time,

- (i) one-half of the amount of any capital gain and one-half of the amount of any capital loss of any predecessor private corporation for any fiscal year commencing after it last became a private corporation and ending after 1971 and either before or at the time of the amalgamation shall, in the case of a capital gain, be included, and in the case of a capital loss, be deducted,
 - (ii) any amount that would, if the amalgamation had not occurred but if any fiscal year of a predecessor corporation that would otherwise have ended next after the amalgamation had ended immediately before the amalgamation, have been required by any of subclauses ii to iv of clause *b* of subsection 1 of section 83 to be included in computing the predecessor corporation's capital dividend account immediately after the amalgamation shall be included, and
 - (iii) any capital dividend that became payable by any predecessor corporation after it last became a private corporation and before the amalgamation shall be deducted; *New.*
- (x) in the case of a new corporation that is a mutual ^{Mutual fund corporation} fund corporation,
- (i) for the purpose of computing its capital gains dividend account at any time, where a predecessor mutual fund corporation had a capital gains dividend account immediately before the amalgamation the amount thereof shall be added to the amount determined under section 109, and
 - (ii) for the purpose of computing its refundable capital gains tax on hand at the end of any fiscal year, where a predecessor mutual fund corporation had refundable capital gains tax on hand immediately before the amalgamation the amount thereof shall be added to the amount determined under section 109; *New.*
- (y) for the purpose of section 192 of the *Income Tax Act* ^{Application of 1970-71, c. 63 (Can.) Pt. VII} (Canada) except subsection 11 thereof, where a cor-

poration was controlled by a predecessor corporation immediately before the amalgamation and has, by virtue of the amalgamation, become controlled by the new corporation, the new corporation shall be deemed to have acquired control of the corporation so controlled at the time control thereof was acquired by the predecessor corporation; *New*.

Designated
surplus

1970-71, c. 63
(Can.)

- (z) for the purpose of computing the designated surplus of the new corporation at any particular time, there shall be added to the aggregate of the amounts determined under subparagraphs i and ii of paragraph *a* of subsection 13 of section 192 of the *Income Tax Act* (Canada) or under subparagraphs i to iii of paragraph *b* of subsection 13 of section 192 of the *Income Tax Act* (Canada), as the case may be, the aggregate of amounts each of which is an amount in respect of a predecessor corporation, equal to,

(i) in any case where the predecessor corporation was, immediately before the amalgamation, controlled by a corporation that, immediately after the amalgamation and thereafter without interruption until the particular time, controlled the new corporation, its designated surplus immediately before the amalgamation, and

(ii) in any other case, the amount that its designated surplus would have been immediately before the amalgamation if control of the predecessor corporation had been acquired by another corporation immediately before the amalgamation; *New*.

1971
undistributed
income on
hand

- (za) for the purpose of computing the 1971 undistributed income on hand of the new corporation at any time, except as that computation applies for the purpose of determining the designated surplus of the new corporation at any time, where a predecessor corporation had 1971 undistributed income on hand immediately before the amalgamation the amount thereof shall be added to the aggregate of the amounts determined under paragraphs *a*, *b* and *c* of subsection 4 of section 196 of the *Income Tax Act* (Canada). *New*.

Where
share of
predecessor
corporation
owned by
another
such
corporation

- (3) Where there has been an amalgamation of two or more corporations after 1971 and, immediately before the amalgamation, one of the predecessor corporations, in this subsection referred to as the "owner corporation", owned any share of

the capital stock of another of the predecessor corporations, the following rules apply,

- (a) for the purpose of computing the paid-up capital deficiency of the new corporation at any time, the amount, if any, by which the paid-up capital in respect of the share immediately before the amalgamation exceeds the adjusted cost base of the share to the owner corporation immediately before the amalgamation shall be added to the aggregate of the amounts determined under subclauses i to iv of clause *d* of subsection 1 of section 83; and
- (b) for the purpose of computing the post-1971 undistributed surplus on hand, within the meaning given to that expression by subsection 15 of section 192 of the *Income Tax Act* (Canada), of the new corporation at any time, the amount, if any, by which the adjusted cost base of the share to the owner corporation immediately before the amalgamation exceeds the paid-up capital in respect of the share immediately before the amalgamation shall be added to the aggregate of the amounts determined under paragraphs *a* to *d* of subsection 15 of section 192 of the *Income Tax Act* (Canada). *New.*

(4) Where there has been an amalgamation of two or more corporations after 1971, for the purpose of computing the income of each shareholder, except any predecessor corporation, who owned one or more shares of the capital stock of a predecessor corporation immediately before the amalgamation, the following rules apply,

Rules
applicable
for
computing
income of
shareholder
of pre-
decessor
corporation

- (a) where the shareholder owned one or more preferred shares of any class of the capital stock of the predecessor corporation immediately before the amalgamation and received no consideration for the disposition of those shares on the amalgamation other than one or more preferred shares of a class of the capital stock of the new corporation having substantially the same rights and conditions attaching thereto, determined without regard to any voting rights attaching to any shares, as attached to the shares of the predecessor corporation so disposed of by him,
 - (i) the shareholder shall be deemed to have disposed of the preferred shares of the class of the capital stock of the predecessor corporation so disposed of by him on the amalgamation, for proceeds equal to the adjusted cost base

to him of those shares immediately before the amalgamation, and

- (ii) he shall be deemed to have acquired the preferred shares of the class of the capital stock of the new corporation so acquired by him as consideration for the disposition of the preferred shares described in subclause i, at a cost to him equal to the proceeds described in that subclause; and

(b) where,

- (i) the shareholder owned one or more common shares of the capital stock of the predecessor corporation immediately before the amalgamation,
- (ii) none of the persons, except any predecessor corporation, who owned one or more of the common shares of the capital stock of the predecessor corporation immediately before the amalgamation received any consideration for the disposition of those shares on the amalgamation, other than one or more shares of the capital stock of the new corporation, and

(iii) either,

- (A) the persons, except any predecessor corporation, who together owned all of the common shares of the capital stock of the predecessor corporation immediately before the amalgamation together received as consideration for the disposition of those shares on the amalgamation not less than 25 per cent of the shares of each particular class of the issued common shares of the capital stock of the new corporation immediately after the amalgamation,

or,

(B) in any case where,

- 1. the shareholder owned one or more of the common shares of the capital stock of one or more

other predecessor corporations immediately before the amalgamation, and

2. none of the persons, except any predecessor corporation, who owned one or more of the common shares of the capital stock of such one or more other predecessor corporations immediately before the amalgamation received any consideration for the disposition of those shares on the amalgamation other than one or more shares of the capital stock of the new corporation,

the shareholder received on the amalgamation, as consideration for the disposition of the common shares of the capital stock of the predecessor corporation and of such one or more other predecessor corporations owned by him immediately before the amalgamation, not less than 80 per cent of the shares of each particular class of the issued common shares of the capital stock of the new corporation immediately after the amalgamation,

the shareholder,

- (iv) shall be deemed to have disposed of the common shares of the capital stock of the predecessor corporation so disposed of by him on the amalgamation, for proceeds equal to the adjusted cost base to him of those shares immediately before the amalgamation, and
- (v) shall be deemed to have acquired the shares of any particular class of the capital stock of the new corporation so acquired by him as consideration for the disposition of the common shares described in subclause iv, at a cost to him equal to that proportion of the proceeds described in subclause iv that,
 - (A) the fair market value, immediately after the amalgamation, of all shares of that particular class so acquired by him,

is of,

- (B) the fair market value, immediately after the amalgamation, of all of the shares of the capital stock of the new corporation so acquired by him as consideration for the disposition of the common shares described in subclause iv. *New.*

Percentage of shares received by shareholders of predecessor corporation

(5) For the purposes of sub-subclause A of subclause iii of clause *b* of subsection 4, the percentage of the shares of any particular class of the issued common shares of the capital stock of the new corporation immediately after the amalgamation received as described in that sub-subclause by the persons, except any predecessor corporation, who together owned all of the common shares of the capital stock of a particular predecessor corporation shall be deemed to be,

- (a) the percentage thereof otherwise determined,

plus,

- (b) that proportion of the percentage described in clause *a* that,

- (i) the fair market value of the issued common shares of the capital stock of the particular predecessor corporation owned by all other predecessor corporations immediately before the amalgamation,

is of,

- (ii) the fair market value of the issued common shares of the capital stock of the particular predecessor corporation owned by all persons, except any predecessor corporation, immediately before the amalgamation. *New.*

Canadian exploration and development expenses

(6) Where there has been an amalgamation of two or more corporations after 1971 and the new corporation is a principal-business corporation within the meaning given to that expression by subsection 12 of section 63, there may be deducted by the new corporation in computing its income for a fiscal year the aggregate of the following amounts in respect of expenses incurred by predecessor corporations, namely, in respect of each individual predecessor corporation, the amount that is the lesser of,

- (a) the aggregate of the Canadian exploration and development expenses, within the meaning given to that expres-

sion by subsection 12 of section 63, incurred by the predecessor corporation to the extent that such expenses,

- (i) were not deductible by the new corporation in computing its income for a previous fiscal year, and were not deductible by the predecessor corporation in computing its income for its last fiscal year or for a previous fiscal year, and
 - (ii) would, but for clause *b* of subsection 1 of section 63, have been deductible by the predecessor corporation in computing its income for its last fiscal year, and
- (*b*) of the aggregate determined under clause *a*, an amount equal to such part of the income of the new corporation for the year if no deduction were allowed under this section, section 62 or section 63, minus any deductions allowed for the fiscal year by section 100 as may reasonably be regarded as attributable to the production of petroleum or natural gas from wells, or the production of minerals from mines, situated on property in Canada from which the predecessor corporation had, immediately before the amalgamation, a right to take or remove petroleum or natural gas or a right to take or remove minerals,

and no amount in respect of expenses of the predecessor corporation included in the aggregate determined under clause *a* shall where subsection 15 of section 192 of the *Income Tax Act* ^{1970-71, c. 63 (Can.)} (Canada) is being applied to determine for the purposes of clause *z* of subsection 2 of this section the designated surplus of the predecessor corporation immediately before the amalgamation, be included in the amount or amounts deductible under any paragraph of subsection 15 of section 192 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 66 (2), par. 13, (3), *amended*.

82. Where a Canadian corporation, in this section referred to as the “subsidiary”, has been wound up after 1971 and all of the issued shares of the capital stock thereof were, ^{Winding-up of wholly-owned Canadian corporation} immediately before the winding-up, owned by another Canadian corporation, in this section referred to as the “parent”, notwithstanding any other provisions of this Act the following rules apply,

- (a) each property of the subsidiary that was distributed to the parent on the winding-up shall be deemed to have been disposed of by the subsidiary for proceeds equal to,
 - (i) in the case of any property described in subsection 2 of section 59, nil, and
 - (ii) in the case of any other property, the cost amount to the subsidiary of the property immediately before the winding-up;
- (b) the shares of the capital stock of the subsidiary shall be deemed to have been disposed of by the parent on the winding-up for proceeds equal to the greater of,
 - (i) the lesser of the paid-up capital limit of the subsidiary immediately before the winding-up and the amount determined under subclause i of clause *d*, and
 - (ii) the aggregate of amounts each of which is an amount in respect of any share of the capital stock of the subsidiary so disposed of by the parent on the winding-up, equal to the adjusted cost base to the parent of the share immediately before the winding-up;
- (c) the cost to the parent of each property of the subsidiary distributed to the parent on the winding-up shall be deemed to be the amount deemed by clause *a* to be the proceeds of disposition of the property, plus, where the property was a capital property, other than depreciable property, of the subsidiary, the amount determined under clause *d* in respect thereof;
- (d) the amount determined under this clause in respect of each property that was a capital property, other than depreciable property, of the subsidiary is such portion of the amount, if any, by which the aggregate determined under subclause ii of clause *b* exceeds,
 - (i) the amount, if any, by which,
 - (A) the aggregate of amounts each of which is an amount in respect of any property owned by the subsidiary immediately before the winding-up, equal to the cost

amount to the subsidiary of the property immediately before the winding-up, plus the amount of any money of the subsidiary on hand immediately before the winding-up,

exceeds

- (B) the aggregate of amounts each of which is the amount of any debt owing by the subsidiary, or of any other obligation of the subsidiary to pay any amount, that was outstanding immediately before the winding-up,

as is designated by the parent in respect of that capital property in its return for its fiscal year in which the subsidiary was so wound up, except that,

- (ii) in no case shall the amount so designated in respect of any such capital property exceed the amount, if any, by which the fair market value of the property immediately before the winding-up exceeds the cost amount to the subsidiary of the property immediately before the winding-up, and
- (iii) in no case shall the aggregate of amounts so designated in respect of all such capital properties exceed the amount, if any, by which the aggregate determined under subclause ii of clause *b* exceeds the amount determined under subclause i;
- (e) the subsidiary shall be deemed to have paid and the parent shall be deemed to have received, immediately before the winding-up, a dividend on the shares of the capital stock of the subsidiary equal to the amount, if any, by which the amount determined under subclause i of clause *d* exceeds the paid-up capital limit of the subsidiary immediately before the winding-up; and
- (f) where property that was depreciable property of a prescribed class of the subsidiary has been distributed to the parent on the winding-up and the capital cost to the subsidiary of the property exceeds the amount deemed by clause *a* to be the subsidiary's proceeds of disposition thereof, for the purposes of sections

17 and 24 and any regulations made under clause *a* of subsection 1 of section 24,

- (i) notwithstanding clause *c* the capital cost to the parent of the property shall be deemed to be the amount that was the capital cost thereof to the subsidiary, and
- (ii) the excess shall be deemed to have been allowed to the parent in respect of the property under regulations made under clause *a* of subsection 1 of section 24 in computing income for fiscal years before the acquisition by the parent of the property. *New.*

83.—(1) In this Subdivision,

Interpre-
tation

- (a) “Canadian corporation” at any time means a corporation that was resident in Canada at that time and was,
 - (i) incorporated in Canada, or
 - (ii) resident in Canada throughout the period commencing June 18, 1971 and ending at that time,

except that for the purposes of subsection 1 of section 77 a corporation that was incorporated in Canada before April 27, 1965 and that was not resident in Canada at the end of 1971 shall be deemed not to be a Canadian corporation; R.S.O. 1970, c. 91, s. 1 (1) par. 8.

- (b) “capital dividend account” of a corporation at any particular time means the amount, if any, by which the aggregate of,
 - (i) one-half of the amount, if any, by which the aggregate of the capital gains of the corporation, for fiscal years in the period commencing with the first fiscal year commencing after the time the corporation last became a private corporation and ending after 1971, and ending with the last fiscal year ending before the particular time, exceeds the aggregate of its capital losses for those fiscal years,

- (ii) all amounts each of which is an amount in respect of a dividend received by the corporation on a share of the capital stock of another corporation in the period, which amount was, by virtue of subsection 2 of section 77, not included in computing the income of the corporation,
- (iii) all amounts each of which is an amount in respect of a business carried on by the corporation at any time in the period, equal to the amount, if any, by which,
 - (A) the aggregate of the eligible capital amounts, within the meaning given to that expression by subsection 1 of section 18, in respect of the business that became payable to the corporation in the period,

exceeds the aggregate of,

- (B) the cumulative eligible capital of the corporation in respect of the business at the commencement of the period, and
 - (C) one-half of the aggregate of the eligible capital expenditures in respect of the business that were made or incurred by the corporation in the period, and
- (iv) the amount, if any, by which,
- (A) the proceeds of any life insurance policy received by the corporation in the period and after 1971 in consequence of the death of any person whose life was insured under the policy,

exceeds

- (B) all amounts paid as or on account of premiums paid under the policy,

exceeds the aggregate of all capital dividends that became payable by the corporation after the commencement of the period and before the particular time; *New*.

- (c) "paid-up capital" in respect of a share of any class of the capital stock of a corporation at any particular

time means an amount equal to the paid-up capital of the corporation at that time that is represented by the shares of the class to which that share belongs, divided by the number of issued shares of that class then outstanding; R.S.O. 1970, c. 91, s. 2 (2) (g).

(d) “paid-up capital deficiency” of a corporation at any particular time means the amount, if any, by which the aggregate of,

- (i) the amounts determined under subclauses v and vi of clause 1 in respect of the corporation,
- (ii) all amounts determined under subclauses vii and viii of clause 1 in respect of the corporation at the particular time,
- (iii) the paid-up capital at the particular time in respect of any shares of the capital stock of the corporation issued after 1971 that were received by a person as described in subsection 1 of section 37, and
- (iv) where subsection 1 or 2 of section 79 has been applicable in respect of any disposition of property to the corporation before the particular time, the amount, if any, by which,

(A) the amount by which any increase, by virtue of the disposition, in the paid-up capital of the corporation exceeds any increase, by virtue of the disposition, in the value of its assets, determined as though the value of any property so transferred were its cost to the corporation for the purposes of this Part and as though this Part were read without reference to subsection 5 of section 79, less its liabilities,

exceeds

(B) the amount by which any increase, by virtue of the disposition, in the paid-up capital of the corporation exceeds any increase, by virtue of the disposition, in the value of its assets less its liabilities,

exceeds the aggregate of,

- (v) the tax equity of the corporation at the end of its 1971 fiscal year,
 - (vi) all amounts determined under subclauses ii, iii, iv and iv.1 of clause *l* in respect of the corporation at the particular time,
 - (vii) all amounts each of which is an amount deemed by subsection 2, 3, or 4 of section 78 to be a dividend paid before the particular time by the corporation on shares of any class, to the extent of the amount, if any, by which the paid-up capital in respect of the shares of that class at the time the dividend was paid exceeds the paid-up capital limit of the corporation at the time the dividend was paid,
 - (viii) all amounts each of which is an amount in respect of a reduction of the paid-up capital of the corporation after its 1971 fiscal year and before the particular time, equal to the amount, if any, by which the amount of the reduction exceeds the aggregate of amounts paid by it to its shareholders on the reduction,
 - (ix) all business losses, within the meaning of *The R.S.O. 1970, c. 91 Corporations Tax Act* as it read in its application to the fiscal years prior to 1972, sustained by the corporation in fiscal years ending before 1972, to the extent that such losses have been deducted under clause *a* of subsection 1 of section 99 from the corporation's income for any fiscal year ending after 1971 and before the particular time, and
 - (x) all amounts each of which is an amount in respect of any purchase by the corporation before the particular time of any shares of its capital stock in respect of which tax under section 181 of the *Income Tax Act* (Canada) ^{1970-71, c. 63 (Can.)} is payable by it, equal to the amount, if any, by which the amount described in paragraph *a* of subsection 1 of section 181 of that Act in respect of the purchase exceeds the amount described in paragraph *b* of subsection 1 of section 181 of that Act in respect thereof; *New*.
- (e) "paid-up capital limit" of a corporation at any particular time means the amount, if any, by which the paid-up capital of the corporation at that time

in respect of all of the shares of its capital stock exceeds the corporation's paid-up capital deficiency at that time; *New*.

(f) "private corporation" at any particular time means a corporation that, at the particular time, was resident in Canada, was not a public corporation, and was not controlled, directly or indirectly in any manner whatever, by one or more public corporations; and for greater certainty for the purposes of determining, at any particular time, when a corporation last became a private corporation,

(i) a corporation that was a private corporation at the commencement of its 1972 fiscal year and thereafter without interruption until the particular time shall be deemed to have last become a private corporation at the end of its 1971 fiscal year, and

(ii) a corporation incorporated after 1971 that was a private corporation at the time of its incorporation and thereafter without interruption until the particular time shall be deemed to have last become a private corporation immediately before the time of its incorporation; *New*.

(g) "public corporation" at any particular time means a corporation that was resident in Canada at the particular time, if,

(i) at the particular time, a class or classes of shares of the capital stock of the corporation were listed on a prescribed stock exchange in Canada,

(ii) at any time after June 18, 1971 and,

(A) before the particular time, it elected in the prescribed manner to be a public corporation, and at the time of the election it complied with the prescribed conditions relating to the number of its shareholders, dispersal of ownership of its shares, public trading of its shares and size of the corporation, or

(B) before a day thirty days before the particular time, it was, by notice in

writing to the corporation, designated by the Minister of National Revenue for Canada to be a public corporation, and at the time it was so designated it complied with the conditions referred to in sub-subclause A,

unless subsequent to the election or designation, as the case may be, and before the particular time, it ceased to be a public corporation by virtue of subclause iii, or

(iii) at any time after June 18, 1971 and before the particular time, it was a public corporation, unless after the time it last became a public corporation and,

(A) before the particular time, it elected in the prescribed manner not to be a public corporation, and at the time it so elected it complied with the prescribed conditions relating to the number of its shareholders, dispersal of ownership of its shares and public trading of its shares, or

(B) before a day thirty days before the particular time, it was, by notice in writing to the corporation, designated by the Minister of National Revenue for Canada not to be a public corporation, and at the time it was so designated it complied with the conditions referred to in sub-subclause A,

in which case it shall be deemed thereupon to have ceased to be a public corporation;
Now.

(h) "tax equity" of a corporation at the end of its 1971 fiscal year means the amount, if any, by which the aggregate of all amounts each of which is,

(i) an amount in respect of depreciable property of a prescribed class owned by the corporation immediately after that time, equal to the undepreciated capital cost thereof to the corporation at that time,

(ii) an amount in respect of any other depreciable property owned by the corporation at that time, equal to the amount by which,

(A) the actual cost of the property to the corporation, or the amount at which it was deemed to have acquired the property under subsection 8 of section 32 of *The Corporations Tax Act* as it read in its application to the fiscal years prior to 1972, as the case may be,

R.S.O. 1970, c. 91

exceeds

(B) the aggregate of amounts in respect of the cost of the property that were allowed under clause *a* of subsection 2 of section 23 of *The Corporations Tax Act* as it read in computing the income of the corporation for fiscal years ending before 1972,

(iii) an amount in respect of any capital property, other than depreciable property, owned by the corporation at that time, equal to its cost to the corporation, determined without reference to the *Corporations Tax Application Rules, 1972*, minus any amounts in respect of the cost thereof deducted in computing the income of the corporation under Part III of *The Corporations Tax Act* as it read in its application to fiscal years prior to 1972,

(iv) an amount in respect of property owned by the corporation and described in its inventory at that time equal to its value, at that time, for the purposes of computing the income of the corporation under Part III of *The Corporations Tax Act* as it read in its application to fiscal years prior to 1972,

(v) the amount of any debt owing to the corporation, other than any debt the amount of which was included in computing the corporation's income for its 1971 fiscal year and deducted in computing that income under clause *m* of subsection 1 of section 23 of *The Corporations Tax Act* as it read in its application to fiscal years prior to 1972, or of any other right of the corporation to receive an amount, that was outstanding at that time,

minus such portion thereof as was not but would have been, if the amount had been received by the corporation in its 1971 fiscal year, included in computing its income for that fiscal year,

- (vi) the amount of any money of the corporation on hand at that time, or
- (vii) such part, if any, of,
 - (A) the cost to the corporation of any property, other than property described in subclauses i to v, owned by the corporation at that time, or
 - (B) any expenditure incurred by the corporation, other than an expenditure to acquire property, before that time,

as was not deductible in computing the corporation's income for the 1971 or any previous fiscal year for the purposes of Part III of *The Corporations Tax Act* as it read in its application to that fiscal year, but would have been deductible in computing its income for the 1971 fiscal year if *The Corporations Tax Act* as it read in its application to that fiscal year had been read without reference to any restriction on the quantum of any deduction thereunder,

R.S.O. 1970,
c. 91

exceeds the aggregate of all amounts each of which is,

- (viii) the amount of any debt owing by the corporation or of any other obligation of the corporation to pay an amount, that was outstanding at that time, minus such part, if any, thereof as would be, if the amount were paid by the corporation in its 1972 fiscal year, deductible in computing its income for its 1972 fiscal year, or
 - (ix) the amount of any reserve deducted in computing the corporation's income for its 1971 fiscal year under Part III of *The Corporations Tax Act* as it read in its application to that fiscal year; *New*.
- (i) "taxable Canadian corporation" means a corporation that,

1970-71, c. 63
(Can.)

- (i) was a Canadian corporation at the time any dividend in respect of which the expression is relevant was received or deemed to have been received, and
 - (ii) was not, by virtue of a statutory provision, exempt from tax under Part I of the *Income Tax Act* (Canada) for the fiscal year of the corporation during which the dividend was received or deemed to have been received; *New.*
- (j) "taxable dividend" means a dividend in respect of which the corporation paying the dividend has not elected in accordance with section 83 of the *Income Tax Act* (Canada) in respect of the full amount thereof; *New.*
- (k) "tax-paid undistributed surplus on hand" of a corporation at any particular time means the amount, if any, by which the aggregate of,
- (i) the lesser of,
 - (A) the amount that the corporation's tax-paid undistributed income, within the meaning of the *Income Tax Act* (Canada) as it read in its application to the 1971 fiscal year, would be, if that Act as it so read were applicable to the period consisting of that part of the corporation's 1972 fiscal year that is before 1972, as of the end of 1971, and
 - (B) the amount that the corporation's 1971 undistributed income on hand, as determined for purposes of the *Income Tax Act* (Canada), would be on January 1, 1972 if subsection 4 of section 196 of the *Income Tax Act* (Canada) were read without reference to paragraph *d* thereof,
 - (ii) all amounts on which, before the particular time, tax has been paid by the corporation under Part IX of the *Income Tax Act* (Canada), minus all amounts of that tax, and
 - (iii) all amounts each of which is an amount in respect of a dividend received by the corporation on a share of any class of the

capital stock of another corporation after 1971 and before the particular time, equal to the amount, if any, by which,

- (A) that proportion of such part of the whole dividend paid by the other corporation on all shares of that class at the time it paid the dividend so received by the corporation as was payable out of the other corporation's tax-paid undistributed surplus on hand, that the dividend so received by the corporation is of the whole dividend so paid by the other corporation,

exceeds

- (B) 85/15 of the amount, if any, that the Minister of National Revenue for Canada was, before the particular time, required by subsection 2 of section 196 of the *Income Tax Act* ^{1970-71, c. 63 (Can.)} (Canada) to pay to the corporation in respect of the dividend so received by it,

exceeds the aggregate of such of the dividends that became payable by the corporation before the particular time as were payable out of the corporation's tax-paid undistributed surplus on hand; and, *New*.

- (l) "1971 capital surplus on hand" of a corporation at any particular time means the amount, if any, by which the aggregate of,
 - (i) the tax equity of the corporation at the end of its 1971 fiscal year,
 - (ii) all amounts each of which is an amount in respect of a capital property of the corporation owned by it on December 31, 1971 and disposed of by it after that date and before the particular time, equal to the amount, if any, by which the lesser of its fair market value on the day fixed by proclamation for the purposes of Subdivision B and the corporation's proceeds of disposition thereof exceeds its actual cost to the corporation determined without reference to the *Corporations Tax Application Rules*, 1972,

- (iii) all amounts each of which is an amount in respect of a capital property owned by it at the end of its 1971 fiscal year or acquired by it thereafter and disposed of by the corporation before 1972, equal to the amount, if any, by which the corporation's proceeds of disposition thereof exceeds its actual cost to the corporation determined without reference to the *Corporations Tax Application Rules, 1972*,
- (iv) all amounts each of which is an amount in respect of a dividend received by the corporation on a share of the capital stock of another corporation after 1971 and before the particular time, which amount was, by virtue of subsection 1 of section 77, not included in computing the income of the corporation by virtue of this Subdivision, minus such portion, if any, of that amount as was payable out of the other corporation's tax-paid undistributed surplus on hand, and
- (iv.1) all amounts each of which is an amount in respect of an eligible capital amount, within the meaning given to that expression by subsection 1 of section 18, in respect of a business carried on by the corporation that became payable to the corporation in a fiscal year commencing after the time the corporation last became a private corporation and ending before the particular time, equal to the amount, if any, by which,
 - (A) the amount that the eligible capital amount would be but for the provisions of the *Corporations Tax Application Rules, 1972* relating to section 18, exceeds
 - (B) the eligible capital amount,
 exceeds the aggregate of,
 - (v) the paid-up capital of the corporation at the end of its 1971 fiscal year in respect of all of the shares of its capital stock,
 - (vi) the amount that the corporation's undistributed income on hand, within the meaning given to that expression by the *Income Tax Act* (Canada) as it read in its application to the 1971

fiscal year, would be at the end of its 1971 fiscal year if,

- (A) that Act as it so read were read without reference to subparagraph iii of paragraph *a* of subsection 1 of section 82 thereof, and
- (B) references in paragraph *a* of subsection 1 of section 82 of that Act, except subparagraph A of subparagraph vii, thereof to "1917" were read as references to "1950",
- (vii) all amounts each of which is an amount in respect of a capital property, other than depreciable property, of the corporation owned by it on December 31, 1971 and disposed of by it after that date and before the particular time, equal to the amount, if any, by which its actual cost to the corporation determined without reference to the *Corporations Tax Application Rules, 1972* exceeds the greater of the fair market value of the property on the day fixed by proclamation for the purposes of Subdivision B and the corporation's proceeds of disposition thereof,
- (viii) all amounts each of which is an amount in respect of a capital property, other than depreciable property, owned by it at the end of its 1971 fiscal year or acquired by it thereafter and disposed of by it before 1972, equal to the amount, if any, by which its actual cost to the corporation determined without reference to the *Corporations Tax Application Rules, 1972* exceeds the corporation's proceeds of disposition thereof, and
- (ix) all amounts each of which is an amount in respect of a dividend that became payable by the corporation before the particular time, equal to the portion, if any, thereof payable out of its 1971 capital surplus on hand. *New.*

(1a) In subsection 1, "the day fixed by proclamation for the purposes of Subdivision B" is the day fixed by proclamation for the purposes of Subdivision *c* of Division B of Part I of the *Income Tax Act* (Canada). *New.*

Day fixed by proclamation 1970-71, c. 63 (Can.)

(2) Notwithstanding clause *l* of subsection 1, a life insurance corporation's 1971 capital surplus on hand at any particular time is the amount, if any, by which the aggregate of,

1971 capital surplus on hand of life insurance corporation

- (a) all amounts each of which is an amount in respect of any property disposed of by the corporation after 1968 and before 1972 that would, if the property had been disposed of after 1972, have been a capital property of the corporation, equal to the amount, if any, by which the proceeds of disposition of the property exceed the cost to the corporation thereof; and
- (b) the amount determined under subclause ii of clause *l* of subsection 1 in respect of the corporation at the particular time,

exceeds the aggregate of,

- (c) all amounts each of which is an amount in respect of any property described in clause *a*, equal to the amount, if any, by which the cost to the corporation of the property exceeds the proceeds of disposition thereof;
- (d) the amount determined under subclause vii of clause *l* of subsection 1 in respect of the corporation at the particular time; and
- (e) all amounts each of which is an amount in respect of a dividend that became payable by the corporation before the particular time, equal to the portion, if any, thereof payable out of its 1971 capital surplus on hand. *New.*

SUBDIVISION H—SHAREHOLDERS OF CORPORATIONS NOT RESIDENT IN CANADA

Dividends
received
from non-
resident
corporation

84. In computing the income for a fiscal year of a corporation resident in Canada, there shall be included any amounts received by the corporation in the fiscal year as, on account or in lieu of payment of, or in satisfaction of, dividends on a share owned by it of the capital stock of a corporation not resident in Canada. *New.*

SUBDIVISION I—PARTNERSHIPS AND THEIR MEMBERS

General
rules

85.—(1) Where a corporation is a member of a partnership, its income, net capital loss, non-capital loss and restricted farm loss, if any, for a fiscal year, or its taxable income earned in Canada for a fiscal year, as the case may be, shall be computed as if,

- (a) the partnership were a separate person resident in Canada;
- (b) the taxation year of the partnership were its fiscal year;
- (c) each partnership activity, including the ownership of property, were carried on by the partnership as a separate person, and a computation were made of the amount of,
 - (i) each taxable capital gain and allowable capital loss of the partnership from the disposition of property, and
 - (ii) each income and loss of the partnership from each other source or from sources in a particular place,

for each fiscal year of the partnership;

- (d) each income or loss of the partnership for a fiscal year were computed as if no deduction were permitted by subsection 1 of section 62, section 63 or the provisions of the *Corporations Tax Application Rules, 1972* relating to exploration and development expenses;
- (e) each gain of the partnership from the disposition of land used in a farming business of the partnership were computed as if this Act were read without reference to clause *h* of subsection 1 of section 55;
- (f) the amount of the income of the partnership for a fiscal year from any source or from sources in a particular place were the income of the corporation from that source or from sources in that particular place, as the case may be, for the fiscal year of the corporation in which the partnership's fiscal year ends, to the extent of the corporation's share thereof; and
- (g) the amount of the loss of the partnership for a fiscal year from any source or from sources in a particular place were the loss of the corporation from that source or from sources in that particular place, as the case may be, for the fiscal year of the corporation in which the partnership's fiscal year ends, to the extent of the corporation's share thereof.

Construction (2) The provisions of this Subdivision shall be read and construed as if each of the assumptions in clauses *a* to *g* of subsection 1 were made. *New.*

Contribution
of property
to
partnership

86.—(1) Where at any time after 1971 a partnership has acquired property from a person who was, immediately after that time, a member of the partnership, the partnership shall be deemed to have acquired the property at an amount equal to its fair market value at that time and the person shall be deemed to have disposed of the property for proceeds equal to that fair market value. *New.*

Rules
applicable
where
election
by partners

(2) Notwithstanding any other provision of this Act, where at any time after 1971 a Canadian partnership has acquired property from a person who was, immediately after that time, a member of the partnership, if all the persons who immediately after that time were members of the partnership have jointly so elected in respect of the property in the prescribed form and within the prescribed time, the following rules apply:

- (a) the amount that all of those persons have agreed upon in their election in respect of the property shall be deemed to be the person's proceeds of disposition of the property and the amount for which the partnership acquired the property;
- (b) the amount, if any, by which the amount so elected in respect of the property exceeds the amount of the consideration, other than an interest in the partnership, received by the person for the property shall,
 - (i) if immediately before that time the person was a member of the partnership, be included in computing the adjusted cost base to him of his interest in the partnership, and
 - (ii) in any other case, be included in computing the cost to him of his interest in the partnership;
- (c) where the amount that all of those persons have agreed upon in their election in respect of the property is greater than the fair market value, at the time of the disposition, of the property so disposed of, the amount so agreed upon shall, irrespective of the amount actually so agreed upon, be deemed to be an amount equal to that fair market value; and

- (d) notwithstanding clause c, where the amount that all of those persons have agreed upon in their election in respect of the property is less than the amount of the consideration, other than an interest in the partnership, received by the person for the property, the amount so agreed upon shall, irrespective of the amount so agreed upon, be deemed to be an amount equal to the amount of that consideration. *New.*

(3) Where at any time after 1971 a partnership has acquired property from a person who was, immediately after the acquisition, a member of the partnership, and, Where property acquired from majority interest partner

- (a) the person's share, as a member of the partnership, of the income of the partnership from any source for the fiscal year of the partnership in which the property was acquired exceeds one-half of the income of the partnership from that source for the fiscal year; or
- (b) the amount that would, if the partnership were wound up immediately after the acquisition, be paid to the person as a member of the partnership, otherwise than as his share of any income of the partnership, exceeds one-half of the aggregate of all such amounts that would be so paid to all persons as members of the partnership,

the loss, if any, of the person arising from the acquisition of the property by the partnership,

- (c) is, notwithstanding any other provision of this Act, not deductible in computing the income, net capital loss, non-capital loss or restricted farm loss, if any, of the person for any fiscal year; and

(d) shall,

- (i) where immediately before that time the person was a member of the partnership, be included in computing the adjusted cost base to him of his interest in the partnership, and
- (ii) in any other case, be included in computing the cost to him of his interest in the partnership. *New.*

(4) Where subsection 2 has been applicable in respect of the acquisition of any depreciable property by a partnership from a person who was, immediately after he disposed of Where capital cost to partner exceeds proceeds of disposition

the property, a member of the partnership and the capital cost to the person of the property exceeds his proceeds of the disposition, for the purposes of sections 17 and 24 and any regulations made under clause *a* of subsection 1 of section 24,

- (a) the capital cost to the partnership of the property shall be deemed to be the amount that was the capital cost thereof to the person; and
- (b) the excess shall be deemed to have been allowed to the partnership in respect of the property under regulations made under clause *a* of subsection 1 of section 24 in computing income for fiscal years before the acquisition by the partnership of the property. *New.*

Disposition
of partner-
ship property

87.—(1) For the purposes of this Act, notwithstanding that at any time after 1971 a partnership would, but for this subsection, be regarded as having ceased to exist,

- (a) until such time as all of the partnership property and any property substituted therefor has been distributed to the persons entitled by law to receive it, the partnership shall be deemed not to have ceased to exist, and each person who was a partner shall be deemed not to have ceased to be a partner; and
- (b) the right of each such person to share in such property shall be deemed to be an interest in the partnership. *New.*

Continuing
partnership
interest

(2) Where at any time after 1971 a person would, but for this subsection, be regarded as having ceased to be a member of a partnership of which he was a member immediately before that time,

- (a) until such time as all rights to receive any property of or from the partnership in satisfaction of the person's interest in the partnership immediately before that time are satisfied in full, such interest, in this subsection referred to as a "continuing partnership interest", shall, notwithstanding any other provision of this Act, be deemed not to have been disposed of by the person and to continue to be an interest in the partnership;
- (b) a person who has a continuing partnership interest in the partnership shall, for the purposes of this Act, except subsections 2 to 4 of section 86, subsections 3

to 6 of this section, section 89, and section 91, be deemed to be a member of the partnership in respect of his continuing partnership interest therein; and

- (c) in its application to any property that is a continuing partnership interest in the partnership, clause *a* of subsection 3 of section 42 shall be read without reference to the words, "except clause *b* thereof", therein. *New.*

(3) Subject to subsection 3 of section 79 and subsection 4 ^{Deemed proceeds} of this section, where at any time after 1971 a partnership has disposed of property to a person who was, immediately before that time, a member of the partnership, the partnership shall be deemed to have disposed of the property for proceeds equal to its fair market value at that time and the person shall be deemed to have acquired the property at an amount equal to that fair market value. *New.*

(4) Where at any particular time after 1971 a Canadian ^{Rules applicable where partnership ceases to exist} partnership has ceased to exist and all of the partnership property has been distributed to persons who were members of the partnership immediately before that time so that immediately after that time each such person has, in each such property, an undivided interest that, when expressed as a percentage, in this subsection referred to as that person's "percentage", of all of the undivided interests in the property, is equal to his undivided interest, when so expressed, in each other such property, if each such person has jointly so elected in respect of the property in the prescribed form and within the prescribed time, the following rules apply:

- (a) each such person's proceeds of the disposition of his interest in the partnership shall be deemed to be an amount equal to the greater of,
- (i) the adjusted cost base to him, immediately before the particular time, of his interest in the partnership, and
 - (ii) the amount of any money received by him on the cessation of the partnership's existence, plus his percentage of the aggregate of amounts each of which is the cost amount to the partnership of each such property immediately before its distribution;
- (b) the cost to each such person of his undivided interest in each such property shall be deemed to be an amount equal to,

- (i) his percentage of the cost amount to the partnership of the property immediately before its distribution,

plus,

- (ii) where the amount determined under subclause i of clause *a* exceeds the amount determined under subclause ii of clause *a*, the amount determined under clause *c* or *d*, as the case may be, in respect of his undivided interest in the property;
- (c) the amount determined under this clause in respect of each such person's undivided interest in each such property that was a capital property, other than depreciable property, of the partnership is such portion of the excess, if any, described in subclause ii of clause *b* as is designated by him in respect of the property, except that,
- (i) in no case shall the amount so designated in respect of his undivided interest in any such property exceed the amount, if any, by which his percentage of the fair market value of the property immediately after its distribution exceeds his percentage of the cost amount to the partnership of the property immediately before its distribution, and
 - (ii) in no case shall the aggregate of amounts so designated in respect of his undivided interests in all such capital properties, other than depreciable property, exceed the excess, if any, described in subclause ii of clause *b*;
- (d) the amount determined under this clause in respect of each such person's undivided interest in each such property that was depreciable property or a property other than a capital property of the partnership is such portion of,
- (i) the amount, if any, by which the excess, if any, described in subclause ii of clause *b* exceeds the aggregate of amounts designated by him under clause *c* in respect of his undivided interests in all such capital properties, other than depreciable property,

as is designated by him in respect of the property, except that,

- (ii) in no case shall the amount so designated in respect of his undivided interest in any such property exceed the amount, if any, by which his percentage of the fair market value of the property immediately after its distribution exceeds his percentage of the cost amount to the partnership of the property immediately before its distribution, and
 - (iii) in no case shall the aggregate of amounts so designated in respect of his undivided interests in all such properties that are depreciable property or properties other than capital properties, exceeds one-half of the amount determined under subclause i in respect of him;
- (e) where the property so distributed by the partnership was depreciable property of the partnership of a prescribed class and any such person's percentage of the amount that was the capital cost to the partnership of that property exceeds the amount determined under clause *b* to be the cost to him of his undivided interest in the property, for the purposes of sections 17 and 24 and any regulations made under clause *a* of subsection 1 of section 24,
- (i) the capital cost to him of his undivided interest in the property shall be deemed to be his percentage of the amount that was the capital cost to the partnership of the property, and
 - (ii) the excess shall be deemed to have been allowed to him in respect of the property under regulations made under clause *a* of subsection 1 of section 24 in computing income for fiscal years before the acquisition by him of the undivided interest; and
- (f) the partnership shall be deemed to have disposed of each such property for proceeds equal to the cost amount to the partnership of the property immediately before its distribution. *New.*
- (5) Subsection 4 is not applicable in any case in which sub-section 3 of section 79 is applicable. *New.* Application of subs. 4
- (6) Where a Canadian partnership, in this subsection referred to as the "predecessor partnership", has ceased to Continuation of predecessor partnership by new partnership

exist at any particular time after 1971 and, at or before that time, all of the property of the predecessor partnership has been transferred to another Canadian partnership, hereinafter referred to as the "new partnership", the only members of which were members of the predecessor partnership, the new partnership shall be deemed to be a continuation of the predecessor partnership and any member's partnership interest in the new partnership shall be deemed to be a continuation of his partnership interest in the predecessor partnership. *New.*

Fiscal
period of
terminated
partnership

88. Where, at any time in a fiscal year of a partnership, the partnership would, but for subsection 1 of section 87 have ceased to exist, the fiscal year shall be deemed to have ended immediately before that time. *New.*

Disposition
of an interest
in a
partnership

89.—(1) Notwithstanding clause *a* of section 40, a corporation's taxable capital gain for a fiscal year from the disposition of an interest in a partnership to any person exempt from tax under section 122 shall be deemed to be,

- (a) one-half of such portion of its capital gain for the year therefrom as may reasonably be regarded as attributable to increases in the value of any partnership property of the partnership that is capital property other than depreciable property,

plus,

- (b) the whole of the remaining portion of such capital gain.

Gain from
disposition
of interest in
partnership

(2) In computing a corporation's gain for a fiscal year from the disposition of an interest in a partnership, there shall be included, in addition to the amount thereof determined under subsection 1 of section 42, the amount, if any, by which,

- (a) all amounts required by subsection 2 of section 55 to be deducted in computing the adjusted cost base to the corporation, immediately before the disposition, of the interest in the partnership,

exceeds

- (b) the aggregate of the cost to the corporation of the interest in the partnership and all amounts required by subsection 1 of section 55 to be added in computing the adjusted cost base to it, immediately before the disposition, of that interest. *New.*

90. Where a corporation was a member of a partnership at the end of a fiscal year of the partnership in which the partnership disposed of land used in a farming business of the partnership, there may be deducted in computing the corporation's income for its fiscal year in which the fiscal year of the partnership ended, one-half of the aggregate of amounts each of which is an amount in respect of that fiscal year of the corporation or any previous fiscal year of the corporation ending after 1971, equal to the corporation's loss, if any, for the fiscal year from the farming business, to the extent that such loss,

Disposition
of land
used in
farming
business of
partnership

- (a) was, by virtue of section 33, not deductible in computing the corporation's income for the fiscal year,
- (b) was not deductible for the purpose of computing the corporation's taxable income for its fiscal year in which the partnership's fiscal year in which the land was disposed of ended, or for any previous fiscal year of the corporation;
- (c) did not exceed that proportion of the aggregate of,
 - (i) taxes, other than income or profits taxes or taxes imposed by reference to the transfer of the property, paid by the partnership in its fiscal year ending in the fiscal year or payable by it in respect of that fiscal year to a province or a Canadian municipality in respect of the property, and
 - (ii) interest paid by the partnership in its fiscal year ending in the fiscal year or payable by it in respect of that fiscal year, pursuant to a legal obligation to pay interest on borrowed money used to acquire the property or on any amount as consideration payable for the property,

to the extent that such taxes and interest were included in computing the loss of the partnership for that fiscal year from the farming business, that,

- (iii) the corporation's loss from the farming business for the fiscal year,

is of,

- (iv) the partnership's loss from the farming business for its fiscal year ending in the fiscal year; and

- (d) did not exceed the remainder obtained when,

- (i) the aggregate of each of the corporation's losses from the farming business for fiscal years preceding the fiscal year, to the extent that such losses are included in computing the amount determined under this section in respect of the corporation;

is deducted from,

- (ii) two times the amount of the corporation's taxable capital gain from the disposition of the land. *New.*

"Canadian partnership" defined

91. In this Subdivision "Canadian partnership" means a partnership all of the members of which were, at any time in respect of which the expression is relevant, resident in Canada. *New.*

Agreement to share income, etc., so as to reduce or postpone tax otherwise payable

92.—(1) Where the members of a partnership have agreed to share, in a specified proportion, any income or loss of the partnership from any source or from sources in a particular place, as the case may be, or any other amount in respect of any activity of the partnership that is relevant to the computation of the income or taxable income of any of the members thereof, and the principal reason for the agreement may reasonably be considered to be the reduction or postponement of the tax that might otherwise have been or become payable under this Act, the share of each member of the partnership in the income or loss, as the case may be, or in that other amount, is the amount that is reasonable having regard to all the circumstances including the proportions in which the members have agreed to share profits and losses of the partnership from other sources or from sources in other places.

Meaning of "losses" in subs. 1

(2) For the purposes of this section, the word "losses" when used in the expression "profits and losses" means losses determined without reference to other provisions of this Act. *New.*

SUBDIVISION J—BENEFICIARIES OF TRUSTS

Income of beneficiary from a trust

93.—(1) For the purposes of this Part, there shall be included in computing the income of a corporation that is a beneficiary under a trust such part of the amount that would be the income of the trust for a fiscal year if no deduction were made under subsection 6 or 12 of section 104 of the *Income Tax Act* (Canada) or under regulations made under paragraph *a* of subsection 1 of section 20 of the *Income Tax Act* (Canada) as was payable in the fiscal year to the corporation

1970-71, c. 63 (Can.)

whether or not it was paid to it in that fiscal year and shall not be included in computing its income for a subsequent fiscal year in which it was paid.

(2) A corporation that is a beneficiary under a trust may deduct from the amount that would otherwise be its income from the trust by virtue of subsection 1, such part of the amount that would otherwise be deductible from the income of the trust for the fiscal year under regulations made under paragraph *a* of subsection 1 of section 20 of the *Income Tax Act* (Canada), as the trust may determine. ^{Capital cost allowance deduction 1970-71, c. 63 (Can.)}

(3) Where an amount is payable in a fiscal year by a trust to a corporation that is a beneficiary under the trust, no part of that amount shall be deemed, for the purpose of subsection 1, to be payable out of an amount deductible in computing the income of the trust for the fiscal year under regulations made under subsection 1 of section 65 of the *Income Tax Act* (Canada) except such part thereof as the trust designates as being so payable. ^{Depletion allowance}

(4) Such portion of,

(a) the aggregate of taxable dividends received by a trust in a fiscal year on shares of the capital stock of taxable Canadian corporations, ^{Portion of taxable dividends deemed to be dividends received by beneficiary}

as,

(b) may reasonably be considered, having regard to all the circumstances including the terms and conditions of the trust arrangement, to be part of the amount that, by virtue of subsection 1 or section 94, as the case may be, was included in computing the income for the fiscal year of a corporation that was a particular beneficiary under the trust; and

(c) was not designated by the trust in respect of any other beneficiary thereunder,

shall if so designated by the trust in respect of the corporation that was a particular beneficiary in the return of its income for the fiscal year under Part I of the *Income Tax Act* (Canada), be deemed, for the purposes of section 76 and this subsection, to be a taxable dividend received by that corporation in the fiscal year from a taxable Canadian corporation, and not to be a taxable dividend received by the trust in the fiscal year from a taxable Canadian corporation.

(5) Where an amount has, in a fiscal year, become payable by a trust to a corporation that is a particular beneficiary thereunder, such portion thereof as, ^{Portion of non-taxable dividends not to be included in beneficiary's income}

- (a) may reasonably be considered, having regard to all the circumstances including the terms and conditions of the trust arrangement, to have derived from an amount received by the trust in the fiscal year as, on account or in lieu of payment of, or in satisfaction of a dividend on a share of the capital stock of a corporation resident in Canada other than a taxable dividend; and
- (b) was not designated by the trust in respect of any other beneficiary thereunder,

shall, if so designated by the trust in respect of the corporation that was a particular beneficiary in its return of income for the fiscal year under Part I of the *Income Tax Act* (Canada), not be included in computing the income of the corporation that was a particular beneficiary of the trust for the fiscal year.

1970-71, c. 63
(Can.)

Portion of
taxable
capital
gains
deemed
gain of
beneficiary

(6) Such portion of,

- (a) the amount, if any, by which the aggregate of the taxable capital gains of a trust for a fiscal year exceeds the aggregate of,
 - (i) its allowable capital losses for the fiscal year, and
 - (ii) the amount, if any, deductible under paragraph b of subsection 1 of section 111 of the *Income Tax Act* (Canada) from its income for the fiscal year,

as,

- (b) may reasonably be considered, having regard to all the circumstances including the terms and conditions of the trust arrangement, to be part of the amount that, by virtue of subsection 1 or section 94, as the case may be, was included in computing the income for the fiscal year of a corporation that was a particular beneficiary under the trust; and
- (c) was not designated by the trust in respect of any other beneficiary thereunder,

shall, if so designated by the trust in respect of the corporation that was a particular beneficiary in the return of its income for the fiscal year under Part I of the *Income Tax Act* (Canada), be deemed, for the purposes of sections 12 and 99, to be a taxable capital gain for the fiscal year of that corporation from the disposition of capital property.

(7) For the purposes of subsections 1 and 5, an amount shall not be considered to be payable in the fiscal year unless it was paid in the fiscal year to the person to whom it was payable or he was entitled in that fiscal year to enforce payment thereof. *New.*

"Amount payable"

94. The value of all benefits, other than a distribution or payment of capital, to a corporation during a fiscal year from or under a trust, contract, arrangement or power of appointment, irrespective of when made or created, shall be included in computing the corporation's income for the fiscal year. *New.*

Benefits under trust, contract, etc.

95.—(1) Where an amount in respect of a corporation's income interest in a trust has been included in computing the corporation's income for a fiscal year by virtue of subsection 1 of section 93 or subsection 2 of this section, there may be deducted in computing the corporation's income for the fiscal year the lesser of,

Income interest in trust

- (a) the amount so included in computing its income for the fiscal year; and
- (b) the amount, if any, by which the cost to the corporation of the income interest exceeds the aggregate of all amounts in respect of the interest that were deductible by virtue of this subsection in computing the corporation's income for previous fiscal years.

(2) Where in a fiscal year a corporation disposes of an income interest in a trust,

Disposition by corporation of income interest

- (a) except where subsection 3 is applicable, there shall be included in computing the corporation's income for the fiscal year the proceeds of the disposition;
- (b) any taxable capital gain or allowable capital loss of the corporation from the disposition shall be deemed to be nil; and
- (c) for greater certainty, the cost to the corporation of each property received by it as consideration for the disposition is the fair market value of the property at the time of the disposition.

(3) For greater certainty, where at any time any property of a trust has been distributed by the trust to a corporation that was a beneficiary under the trust in satisfaction of all or any part of its income interest in the trust, the trust shall be

Proceeds of disposition of income interest

deemed to have disposed of the property for proceeds of disposition equal to the fair market value of the property at that time. *New.*

Disposition
by
corporation
of capital
interest

96.—(1) Where a corporation has disposed of a capital interest in a trust,

- (a) for the purposes of computing the corporation's taxable capital gain, if any, from the disposition of the interest, the adjusted cost base to the corporation thereof immediately before the disposition shall be deemed to be an amount equal to the greater of the adjusted cost base to it thereof otherwise determined immediately before that time and the cost amount to it of the interest immediately before that time; and
- (b) for greater certainty, for the purposes of computing the corporation's allowable capital loss, if any, from the disposition of the interest, the adjusted cost base to the corporation thereof immediately before the disposition is the adjusted cost base to it of the interest immediately before that time as determined under this Act without reference to clause *a*,

except that where the interest was an interest in an *inter vivos* trust not resident in Canada that was purchased by the corporation, clause *a* does not apply in respect of the disposition thereof except where subsection 2 is applicable in respect of any distribution of property by the trust to the corporation in satisfaction of all or any part of the interest.

Distribution
by trust in
satisfaction
of capital
interest

(2) Where at any time any property of a trust has been distributed by the trust to a corporation that was a beneficiary under the trust in satisfaction of all or any part of the corporation's capital interest in the trust, the following rules apply,

- (a) the trust shall be deemed to have disposed of the property for proceeds of disposition equal to its cost amount to the trust immediately before that time;
- (b) the corporation shall be deemed to have acquired the property at a cost equal to the aggregate of its cost amount to the trust immediately before that time and that proportion of the amount, if any, by which,
 - (i) the adjusted cost base to the corporation of the capital interest immediately before that time as determined for the purposes of clause *b* of subsection 1,

exceeds

- (ii) the cost amount to the corporation of the capital interest immediately before that time,

that the cost amount to the trust of the property immediately before that time is of the amount determined under subclause ii;

- (c) the corporation shall be deemed to have disposed of all or part, as the case may be, of the capital interest for proceeds equal to the cost at which the corporation is deemed by clause *b* to have acquired the property, minus the amount of any debt assumed by the corporation or of any other legal obligation assumed by it to pay any amount, if the distribution of the property to the corporation was conditional upon the assumption by the corporation of the debt or obligation; and
- (d) where the property so distributed was depreciable property of a prescribed class of the trust and the amount that was the capital cost to the trust of that property exceeds the cost at which the corporation is deemed by this section to have acquired the property, for the purposes of sections 17 and 24 and any regulations made under clause *a* of subsection 1 of section 24,
 - (i) the capital cost to the corporation of the property shall be deemed to be the amount that was the capital cost of the property to the trust, and
 - (ii) the excess shall be deemed to have been allowed to the corporation in respect of the property under regulations made under clause *a* of subsection 1 of section 24 in computing income for fiscal years before the acquisition by the corporation of the property.

(3) Where the property referred to in subsection 2 that was distributed by a trust to a corporation was property, other than capital property that was not depreciable property, for the purposes of determining the cost to the corporation of the property under clause *b* of subsection 2, except for the purposes of clause *b* of subsection 2 as it applies to determine the corporation's proceeds of disposition of its capital interest under clause *c* of subsection 2, the reference in clause *b* of subsection 2 to "that proportion" shall be read as a reference to "one-half of that proportion". *New.*

Determination of cost of property other than non-depreciable capital property

Distribution
to non-resi-
dent bene-
ficiary

(4) Where subsection 2 is applicable in respect of the distribution by a trust of any property of the trust to a non-resident corporation that was a beneficiary under the trust and the property was not taxable Canadian property or property that would be taxable Canadian property if at no time in the fiscal year of the trust in which it was so distributed the trust had been resident in Canada, notwithstanding clauses *a* to *c* of subsection 2, the provisions of paragraphs *d* to *f* of subsection 4 of section 107 of the *Income Tax Act* (Canada) are applicable in respect of the property as if the reference in paragraph *f* of subsection 4 of section 107 of that Act to "that fair market value" were read as a reference to "the adjusted cost base to him of the interest or part thereof, as the case may be, immediately before the property was so distributed".

1970-71,
c. 63 (Can.)

Interpre-
tation

97.—(1) In this Subdivision,

- (a) "beneficiary" under a trust includes a person beneficially interested therein;
- (b) "capital interest" of a corporation in a trust means a right, whether immediate or future and whether absolute or contingent, of a corporation that is a beneficiary under the trust to, or to receive, all or any part of the capital of a trust;
- (c) "cost amount" of any capital interest of a corporation in any trust at any time means,
 - (i) in any case where any money or property of the trust has been distributed by the trust to the corporation in full satisfaction of the whole of its capital interest, whether on the winding-up of the trust or otherwise, the aggregate of the money so distributed and all amounts each of which is the cost amount to the trust, immediately before the distribution, of each such property so distributed to the corporation, and
 - (ii) in any other case, that proportion of the amount, if any, by which the aggregate of all money of the trust on hand immediately before that time and all amounts each of which is the cost amount to the trust, immediately before that time, of each property of the trust exceeds the aggregate of all amounts each of which is the amount of any debt owing by the trust, or of any other obligation of the trust to pay any amount, that was outstanding immediately before that time, that,

(A) the fair market value at that time of the capital interest in the trust,

is of,

(B) the fair market value at that time of all capital interests in the trust;

(d) "income interest" of a corporation in a trust means a right, whether immediate or future and whether absolute or contingent, of a corporation that is a beneficiary under the trust to, or to receive, all or any part of the income of the trust;

(e) "*inter vivos* trust" means a trust other than a testamentary trust;

(f) "trust" includes an *inter vivos* trust but, in sections 94 to 96, does not include,

(i) a unit trust, or

(ii) a trust governed by a registered pension fund or plan, an employees profit sharing plan, a registered supplementary unemployment benefit plan, a registered retirement savings plan or a deferred profit sharing plan.

(2) For the purposes of this Act, a trust is a unit trust at any particular time if, at that time, it was an *inter vivos* trust ^{Meaning of expression "unit trust"} the interest of each beneficiary under which was described by reference to units of the trust, and,

(a) the issued units of the trust included,

(i) units having conditions attached thereto that included conditions requiring the trust to accept, at the demand of the holder thereof and at prices determined and payable in accordance with the conditions, the surrender of the units, or fractions or parts thereof, that are fully paid, or

(ii) units qualified in accordance with prescribed conditions relating to the redemption of the units by the trust,

and the fair market value of such of the units as had conditions attached thereto that included such conditions or as were so qualified, as the case may be, was not less than 95 per cent of the fair market value of all of the issued units of the trust, such fair market values being determined without regard to any voting rights attaching to units of the trust; or

(b) throughout the fiscal year in which the particular time occurred it complied with the following conditions,

(i) it was resident in Canada,

- (ii) its only undertaking was the investing of funds of the trust,
- (iii) at least 80 per cent of its property throughout the year consisted of shares, bonds, mortgages, marketable securities, or cash, or of rights to or interest in any rental or royalty computed by reference to the amount or value of production from an oil or gas well, or from a mineral resource, situated in Canada,
- (iv) not less than 95 per cent of its income for the fiscal year was derived from, or from dispositions of, investments described in sub-clause iii,
- (v) at no time in the fiscal year did more than 10 per cent of its property consist of shares, bonds or securities of any one corporation or debtor other than Her Majesty in right of Canada or a province or a Canadian municipality, and
- (vi) all holdings of and transactions, if any, in its units accorded with prescribed conditions relating to the number of its unit holders, dispersal of ownership of its units and public trading of its units.

Meaning of
"income",
of trust

(3) For the purposes of clause *d* of subsection 1 of section 97, the income of a trust is its income computed without reference to the provisions of this Act. *New.*

DIVISION C—COMPUTATION OF TAXABLE INCOME

Deductions
permitted

98.—(1) For the purpose of computing the taxable income of a corporation for a fiscal year, there may be deducted from its income for the fiscal year such of the following amounts as are applicable:

Charitable
donations

- (a) the aggregate of gifts made by the corporation in the fiscal year, and in the immediately preceding fiscal year, to the extent of the amount thereof that was not deductible under this Act in computing the taxable income of the corporation for that immediately preceding fiscal year, to,
 - (i) registered Canadian charitable organizations,
 - (ii) registered Canadian amateur athletic associations,

- (iii) housing corporations resident in Canada and exempt from tax under Part II by clause *f* of subsection 1 of section 122,
- (iv) Her Majesty in right of any province of Canada other than Ontario and any Canadian municipality,
- (v) the United Nations or agencies thereof,
- (vi) universities outside Canada prescribed to be universities the student body of which ordinarily includes students from Canada, and
- (vii) charitable organizations outside Canada to which Her Majesty in right of Canada has made a gift during the fiscal year or the 12 months immediately preceding that fiscal year,

not exceeding 20 per cent of the income of the corporation for the fiscal year, if payment of the amounts given is proven by filing receipts or photostatic reproductions thereof with the Minister that, in the case of a donation to a registered Canadian charitable organization or registered Canadian amateur athletic association, contain prescribed information; R.S.O. 1970, c. 91, s. 37 (1), par. 1, *amended*.

- (b) the aggregate of gifts made by the corporation in the fiscal year, and in the immediately preceding fiscal year, to the extent of the amount thereof that was not deductible under this Act in computing the taxable income of the corporation for that immediately preceding fiscal year, to Her Majesty in right of Canada and of Ontario, not exceeding the amount remaining, if any, when the amount deducted for the fiscal year under subsection 1 is deducted from the income of the corporation for the fiscal year, if payment of the amounts given is proven by filing receipts or photostatic reproductions thereof with the Minister. R.S.O. 1970, c. 91, s. 37 (1), par. 2.

(2) Clauses *a* and *b* of subsection 1 do not apply to permit a corporation to deduct, for the purposes of computing its taxable income for a fiscal year, any amount in respect of gifts made by the corporation in the fiscal year, until the amount deductible under those clauses in respect of gifts made by the corporation in the immediately preceding fiscal year has been deducted. R.S.O. 1970, c. 91, s. 37 (5).

Gifts made by
partnership

(3) Where a corporation was, at the end of a fiscal year of a partnership, a member of the partnership, the corporation's share of any amount that would, if the partnership were a person, be a gift made by the partnership to any donee, shall, for the purposes of this section, be deemed to be a gift made by the corporation in its fiscal year in which the fiscal year of the partnership ended, to that donee. *New.*

Interpre-
tation

(4) In this section,

(a) "registered Canadian amateur athletic association" means an association that was created under any law in force in Canada, that is resident in Canada, and that,

(i) is a person described in paragraph *l* of subsection 1 of section 149 of the *Income Tax Act* (Canada), and

(ii) has, as its primary purpose and its primary function, the promotion of amateur athletics in Canada on a nationwide basis; and *New*

(b) "registered Canadian charitable organization" means,

(i) a charitable organization in Canada exempt from tax under Part I of the *Income Tax Act* (Canada) by paragraph *f* of subsection 1 of section 149 thereof or a corporation or trust resident in Canada exempt from tax under Part I of the *Income Tax Act* (Canada) by paragraph *g* or *h* of subsection 1 of section 149 thereof, or

(ii) a branch, section, parish, congregation or other division of an organization described in subclause *i* that receives donations on its own behalf,

that, except as otherwise designated by the Minister, has been registered as a Canadian amateur athletic association or a Canadian charitable organization, as the case may be, in respect of the same year by the Minister of National Revenue for Canada under subsection 8 of section 110 of the *Income Tax Act* (Canada) and except as otherwise designated by the Minister, the registration has not been revoked by the Minister of National Revenue for Canada under subsection 2 of section 168 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 37 (6,8), *amended*.

99.—(1) For the purpose of computing the taxable income of a corporation for a fiscal year, there may be deducted from the income for the fiscal year such of the following amounts as are applicable:

- (a) non-capital losses for the five fiscal years immediately preceding and the fiscal year immediately following the fiscal year, but no amount is deductible in respect of non-capital losses from the income of any fiscal year except to the extent of the corporation's income for the fiscal year minus all deductions permitted by the provisions of this Division other than this clause or clause *b*; R.S.O. 1970, c. 91, s. 37 (1), par. 3, *amended*. Losses deductible
Non-capital losses
- (b) net capital losses for fiscal years preceding and the fiscal year immediately following the fiscal year, but no amount is deductible in respect of net capital losses from the income of any fiscal year except to the extent of the lesser of, Net capital losses
 - (i) the amount, if any, by which the corporation's income for the fiscal year exceeds the aggregate of all deductions permitted by the provisions of this Division other than this clause, and
 - (ii) the amount, if any, determined under clause *b* of section 12 in respect of the corporation for the fiscal year; *New*.
- (c) restricted farm losses of the corporation for the five fiscal years immediately preceding and the fiscal year immediately following the fiscal year, but no amount is deductible in respect of a restricted farm loss from the income for any fiscal year except to the extent of the lesser of, Restricted farm losses
 - (i) the corporation's income for the fiscal year minus all deductions permitted by the provisions of this Division other than this subsection, and
 - (ii) the corporation's incomes for the fiscal year from all farming businesses carried on by it. R.S.O. 1970, c. 91, s. 37 (4), *amended*.

(2) For the purposes of subsection 1,

- (a) an amount in respect of a non-capital loss, net capital loss or restricted farm loss, as the case may be, for a

Limitation
on
deductibility

fiscal year is only deductible to the extent that it exceeds the aggregate of,

- (i) amounts previously deductible in respect of that loss under this section, and
 - (ii) amounts previously subtracted in respect of that loss under paragraph *c* or *d* of subsection 1 of section 186 of the *Income Tax Act* (Canada) in determining amounts on which tax under Part IV of that Act has become payable; and
- (b) no amount is deductible in respect of a non-capital loss, net capital loss or restricted farm loss, as the case may be, for any fiscal year until,
- (i) in the case of a non-capital loss, the deductible non-capital losses,
 - (ii) in the case of net capital loss, the deductible net capital losses, and
 - (iii) in the case of a restricted farm loss, the deductible restricted farm losses,

for previous fiscal years have been deducted. R.S.O. 1970, c. 91, s. 37 (1, 2), *amended*.

Application
of subs. 1
where
change in
control

(3) Subsection 1 does not apply to permit a corporation to deduct, for the purpose of computing its taxable income for a fiscal year, any amount in respect of its net capital loss for a preceding fiscal year if, before the end of the fiscal year, control of the corporation has been acquired by a person or persons who did not at the end of that preceding fiscal year, control the corporation. R.S.O. 1970, c. 91, s. 37 (2), *amended*.

Idem

(4) Subsection 1 does not apply to permit a corporation to deduct, for the purpose of computing its taxable income for a fiscal year, such portion of its non-capital loss for a preceding fiscal year as may reasonably be regarded as its loss from carrying on any particular business if,

- (a) control of the corporation has been acquired, before the end of the fiscal year, by a person or persons who did not, at the end of that preceding fiscal year, control the corporation and the corporation was not, during the fiscal year, carrying on that business; or
- (b) control of the corporation was acquired, before the end of the fiscal year and after the winding-up or dis-

continuance of that business, by a person or persons who did not control the corporation at any time during that preceding fiscal year when that business was being carried on. R.S.O. 1970, c. 91, s. 37 (2, 3), *amended*.

(5) For the purposes of clause *h* of subsection 1 of section 55 and this section, any loss of a corporation for a fiscal year from a farming business shall, after the corporation disposes of the land used in that farming business and to the extent that the amount of such loss is required by clause *h* of subsection 1 of section 55 to be added in computing the adjusted cost base to the corporation of the land immediately before the disposition, be deemed not to be a loss. *New*. Limitation

(6) For the purposes of this section, any loss of a corporation for a fiscal year from a farming business shall, to the extent that such loss is included in the amount of any deduction permitted by section 90 in computing the corporation's income for any subsequent fiscal year, be deemed not to be a loss of the corporation for the purpose of computing its taxable income for that subsequent fiscal year or any fiscal year subsequent thereto. R.S.O. 1970, c. 91, s. 37 (4), *amended*. Idem

(7) In this section,

Interpre-
tation

(a) "net capital loss" of a corporation for a fiscal year means the amount, if any, by which its allowable capital losses for the fiscal year from dispositions of property, other than listed personal property, exceeds the aggregate of its taxable capital gains for the fiscal year from dispositions of property, other than listed personal property, and its taxable net gains for the fiscal year from dispositions of its listed personal property;

(b) "non-capital loss" of a corporation for a fiscal year means the amount, if any, by which,

(i) the aggregate of all amounts each of which is the corporation's loss for the fiscal year from a business or property and all amounts deductible under section 100 from the corporation's income for the fiscal year,

exceeds

(ii) the amount determined under clause *c* of section 12; and

(c) a reference to any amount determined under any clause or subclause of section 12 for a fiscal year Reference
in s. 12

shall be read as a reference to, in the case of a corporation to which subsection 2 or 3 of section 2 applies, the amount determined under any such clause or subclause for the fiscal year for the purposes of section 101. *New.*

Deduction
of taxable
dividends
received by
corporation
resident in
Canada

100.—(1) Where a corporation in a fiscal year has received a taxable dividend from,

- (a) a taxable Canadian corporation;
- (b) a corporation resident in Canada, other than a non-resident-owned investment corporation, and controlled by it; or
- (c) a corporation non-resident of Canada more than 25 per cent of the issued share capital of which, having full voting rights under all circumstances, belongs to the corporation receiving the dividend,

an amount equal to the dividend may be deducted from the income of the receiving corporation for the fiscal year for the purpose of computing its taxable income. R.S.O. 1970, c. 91, s. 38 (1), *amended*.

Dividends
received
from non-
resident
corporation
1970-71, c. 63
(Can.)

(2) Where a corporation in a fiscal year received a taxable dividend from a non-resident corporation that is taxable under subsection 3 of section 2 of the *Income Tax Act* (Canada) for that fiscal year, the corporation shall deduct from its income for the same fiscal year the same amount in respect of such dividends as the corporation was allowed to deduct under subsection 2 of section 112 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 38 (2).

Loss from
transaction
involving
share on
which
deductible
dividend
received

(3) Where an amount in respect of a taxable dividend received by a corporation, other than a trader or dealer in securities, in a fiscal year is, by virtue of this section or subsection 6 of section 138 of the *Income Tax Act* (Canada) deductible from the corporation's income for the fiscal year, the amount of any loss arising from transactions with reference to the share on which the dividend was received shall, unless it is established by the corporation that,

- (a) the corporation owned the share 365 days or longer before the loss was sustained; and
- (b) the corporation did not, at the time the dividend was received, own more than 5 per cent of the issued shares of any class of the capital stock of the corporation from which the dividend was received,

be deemed to be the amount of that loss otherwise determined minus the aggregate of all amounts received by the corporation in respect of taxable dividends on the share, to the extent that the amounts thereof were deductible from the corporation's income for any fiscal year by virtue of this section or subsection 6 of section 138 of the *Income Tax Act* (Canada). R.S.O. 1970-71, c. 63 (Can.)
1970, c. 91, s. 38 (3).

(4) The amount of any loss of a corporation that is a trader or dealer in securities arising from transactions with reference to any share on which an amount in respect of a dividend has been received by it shall, unless it is established by that corporation that,

Loss sustained by trader or dealer in securities

- (a) it owned the share 365 days or longer before the loss was sustained; and
- (b) it did not, at the time the dividend was received, own more than 5 per cent of the issued shares of any class of the capital stock of the corporation from which the dividend was received,

be deemed to be the amount of that loss otherwise determined, minus the aggregate of all amounts received by the corporation in respect of taxable dividends on the share.

(5) For the purposes of this section,

Meaning of certain expressions

- (a) "taxable dividend" does not include a capital gains dividend within the meaning given to that expression by subsection 1 of section 109; and
- (b) one corporation is controlled by another corporation if more than 50 per cent of its issued share capital, having full voting rights under all circumstances, belongs to the other corporation, to persons with whom the other corporation does not deal at arm's length, or to the other corporation and persons with whom the other corporation does not deal at arm's length. *New.*

DIVISION D—TAXABLE INCOME EARNED

IN CANADA BY NON-RESIDENTS

101. For the purposes of this Act, the taxable income earned in Canada of a corporation to which subsection 2 or 3 of section 2 applies is the amount of its income for the fiscal year that would be determined under section 12 if,

Non-residents' taxable income earned in Canada

- (a) it had no income other than,

- (i) incomes from businesses carried on in Canada,
 - (ii) taxable capital gains from dispositions described in clause *b*,
 - (iii) income from property that is real property situated in Canada or an interest therein, that arose from the sale or rental thereof, or both,
 - (iv) the amount, if any, by which any amount required by subsection 2 of section 95 to be included in computing its income for the fiscal year as proceeds of the disposition of an income interest in a trust resident in Canada exceeds the amount in respect of that income interest that would, if it were liable to taxation by virtue of subsection 1 of section 2 throughout the fiscal year, be deductible under subsection 1 of section 95 in computing its income for the fiscal year, and
 - (v) proceeds of disposition by it in the fiscal year of a property that is a Canadian resource property, within the meaning given to that expression by subsection 12 of section 63, or that would have been such a property if it had been acquired by it after 1971 to the extent not included in computing its income from a business carried on by it in Canada;
- (*b*) the only taxable capital gains and allowable capital losses referred to in clause *b* of section 12 were taxable capital gains and allowable capital losses from dispositions of property each of which was a disposition of a property, in this Act referred to as a "taxable Canadian property", that was a property referred to in any of the subparagraphs i to viii of paragraph *b* of subsection 1 of section 115 of the *Income Tax Act* (Canada); and
- (*c*) the only losses referred to in clause *d* of section 12 were losses from a business carried on by it in Canada or from real property situated in Canada or an interest therein,

1970-71, c. 63
(Can.)

minus the aggregate of such of the deductions from income permitted for the purpose of computing taxable income as may reasonably be considered wholly applicable and of such part of any other of the said deductions as may reasonably be considered applicable. R.S.O. 1970, c. 91, s. 5 (36-38), *amended*.

DIVISION E—COMPUTATION OF INCOME
TAX PAYABLE

102. The tax payable by a corporation under this Part ^{Rate} upon its taxable income or taxable income earned in Canada, as the case may be, in this section referred to as the "amount taxable", is 12 per cent of the amount taxable. R.S.O. 1970, c. 91, s. 5 (1).

103. There may be deducted from the tax otherwise pay- ^{Deduction} ^{from} ^{income tax} able under this Part for a fiscal year by a corporation an amount equal to 12 per cent of that portion of its taxable income or taxable income earned in Canada, as the case may be, which is earned in the fiscal year in each jurisdiction other than Ontario, determined under rules prescribed by the regulations. R.S.O. 1970, c. 91, s. 5 (2).

104. Where a corporation has a permanent establishment ^{Foreign} ^{tax} ^{deduction} in Ontario and has received income in the fiscal year in the form of dividends, interest, rents or royalties that was derived from sources within a jurisdiction outside Canada or is deemed to have received income in the form of dividends and interest from a country outside Canada by virtue of the provisions of subsection 5 of section 148 of the *Income Tax Act* (Canada), here- ^{1970-71, c. 63} ^(Can.) inafter in this section referred to as "foreign investment income", or where a corporation having received foreign investment income in the fiscal year from sources within a jurisdiction outside Canada also received income in the fiscal year from a business carried on by it in that jurisdiction, hereinafter in this section referred to as "foreign business income", and where, for the purposes of subsection 2 of section 126 of the *Income Tax Act* (Canada), such foreign investment income has not been included as part of such foreign business income, and, for the purpose of allocating taxable income to jurisdictions outside Ontario in accordance with the regulations made under section 103, has been excluded when calculating its gross revenue, or any part thereof, and where the corporation is entitled to a deduction under section 126 of the *Income Tax Act* (Canada), hereinafter in this section referred to as "foreign tax credit", with respect to any income or profits tax paid to such jurisdiction on such foreign investment income or on such foreign investment income and foreign business income or is deemed to have been paid as income or profits tax to such jurisdiction by virtue of the provisions of subsection 5 of section 148 of the *Income Tax Act* (Canada), the corporation may deduct from the tax otherwise payable under this Part for the fiscal year an amount equal to the lesser of,

- (a) 10 per cent of that part of such foreign investment income that is included in that portion of taxable

income that remains after deducting from such taxable income the portions thereof deemed to have been earned in jurisdictions other than Ontario for the purpose of section 103; and

(b) the proportion of the deficiency between the foreign tax credit that would be allowed if no provincial tax abatement under section 124 of the *Income Tax Act* (Canada) were applicable and the foreign tax credit that is allowed when the provincial tax abatement provided by section 124 of the *Income Tax Act* (Canada) has been applied which,

(i) the amount of that portion of its taxable income for the fiscal year that is deemed to have been earned in Ontario measured in accordance with paragraph *a*, of subsection 4 of section 124 of the *Income Tax Act* (Canada),

bears to,

(ii) the total amount of the portions of its taxable income for the fiscal year that are deemed to have been earned in the provinces of Canada measured in accordance with paragraph *a* of subsection 4 of section 124 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 5 (39).

Logging
tax
deduction

R.S.O. 1970,
c. 258

105.—(1) There may be deducted from the tax otherwise payable under this Part for a fiscal year by a corporation an amount equal to one-third of the tax payable by the corporation for the same fiscal year under *The Logging Tax Act*. R.S.O. 1970, c. 91, s. 5 (40).

Interpre-
tation

(2) In subsection 1, “tax otherwise payable” means the tax for the fiscal year otherwise payable by the corporation under this Part after making any deduction applicable under section 103. R.S.O. 1970, c. 91, s. 5 (41).

5% invest-
ment tax
deduction

106.—(1) There may be deducted from the tax otherwise payable under this Part for a fiscal year by a corporation an amount equal to 5 per cent of the cost of machinery and equipment acquired and used in that fiscal year by the corporation which machinery and equipment is acquired pursuant to an agreement entered into after the 26th day of April, 1971, and which shall be used by the corporation solely in Ontario prior to the 1st day of April, 1973, for the purpose of earning income. 1971, c. 11, s. 1, *part*.

Deemed
acquisition
and use

(2) For the purposes of this section, where the machinery and equipment in respect of which the provisions of sub-

section 1 would otherwise apply, is not used by the corporation in the fiscal year in which it is acquired, such machinery and equipment shall be deemed to have been acquired and used by the corporation in the fiscal year in which it is first used. 1971, c. 72, s. 1.

(3) Any amount which may be deducted under subsection 1 may be deducted in subsequent fiscal years to the extent that the deduction allowed under subsection 1 exceeds the tax otherwise payable by the corporation in the previous fiscal years and, except as herein provided, no deduction shall be allowed in any fiscal year of the corporation ending after the 31st day of March, 1973, except that with respect to the first fiscal year of the corporation ending after the 31st day of March, 1973, the amount which may be deducted from the tax otherwise payable for that fiscal year shall not exceed that portion of the tax otherwise payable for that fiscal year that the number of days in that fiscal year prior to the 1st day of April, 1973, bears to 365. Tax deduction carried forward

(4) Notwithstanding subsection 3, where a corporation has ^{Idem} a net loss, any amount which may be deducted under subsection 1 may be deducted in subsequent fiscal years to the extent that the deduction allowed under subsection 1 exceeds the tax otherwise payable by the corporation in the previous fiscal years and, except as herein provided, no deduction shall be allowed in any fiscal year of the corporation ending after the 31st day of March, 1974, except that with respect to the first fiscal year of the corporation ending after the 31st day of March, 1974 the amount which may be deducted from the tax otherwise payable for that fiscal year shall not exceed the portion of the tax otherwise payable for that fiscal year that the number of days in that fiscal year prior to the 1st day of April, 1974, bears to 365.

(5) In this section,

Interpre-
tation

(a) "machinery and equipment" means machinery and equipment prescribed by the regulations, but does not include automobiles and trucks, any property that is described in the corporation's inventory or that part of any property in respect of which a loan is made under *The Ontario Development Corporation Act*, or *The Northern Ontario Development Corporation Act*;

R.S.O. 1970,
cc. 308, 299

(b) "net loss" means the amount, if any, by which the non-capital losses exceed the incomes of a corporation for the fiscal years ending between the 26th day of April, 1971, and the 1st day of April, 1973, except that,

- (i) where the provisions of subsection 4 apply with respect to the first fiscal year of the corporation ending after the 31st day of March, 1973, in determining the net loss for the purpose of this section there shall be included that portion of the non-capital loss or income for that fiscal year that the number of days in that fiscal year prior to the 1st day of April, 1973, bears to 365, and
- (ii) where, for the purposes of section 103, part of the taxable income of a corporation for a fiscal year is deemed to have been earned by the corporation in a jurisdiction outside Ontario, or, where the taxable income for that fiscal year is nil and, for the purposes of section 132, part of the taxable paid-up capital of the corporation is deemed to have been used in a jurisdiction outside Ontario, the non-capital loss or income for that fiscal year shall, in determining the net loss for the purpose of this section, be reduced in the same ratio that the tax payable under section 102 or 131, as the case may be, is reduced for that fiscal year;
- (c) "tax otherwise payable" means the tax for the fiscal year otherwise payable by the corporation under this Part after making any deduction applicable under section 103. 1971, c. 11, s. 1, *part*.

Tax on
tax

107. Where under a contract, will or trust, made or created before the 14th day of May, 1953, a person is required to make a payment to a corporation and is required by the terms of the contract, will or trust to pay an additional amount measured by reference to tax payable by such corporation under Part I of the *Income Tax Act* (Canada) and Part II of this Act by reason of the payment,

1970-71, c. 63
(Can.)

- (a) the tax payable by the corporation under Part II of this Act for the fiscal year in or in respect of which such a payment is made or becomes payable is the amount that the tax of the corporation under Part II of this Act would be if no amount under the contract were included in computing its income for the fiscal year plus,
 - (i) the amount by which its tax under Part II of this Act would be increased by including in computing its income,

- (A) the payment, and
- (B) the amount by which its tax under Part I of the *Income Tax Act* (Canada) ^{1970-71, c. 63 (Can.)} would be increased by including the payment in computing its income, and
- (ii) the amount by which the tax of the corporation under Part II of this Act would be further increased by including, in computing its income for the fiscal year, the amount fixed by subclause i or the additional payment, whichever is the lesser; and
- (b) if the person required to make the payment is a corporation and would otherwise be entitled to deduct the amounts payable under such a contract in computing its income for a fiscal year, such corporation is not entitled to deduct the amount determined under subclause ii of clause *a*. R.S.O. 1970, c. 91, s. 67.

DIVISION F—SPECIAL RULES
APPLICABLE IN CERTAIN CIRCUMSTANCES

Bankruptcies

108.—(1) Where a corporation has become a bankrupt, the ^{Where corporation bankrupt} following rules are applicable:

- (a) the trustee in bankruptcy shall be deemed to be the agent of the bankrupt for all purposes of this Act;
- (b) the estate of the bankrupt shall be deemed not to be a trust or an estate for the purposes of this Act;
- (c) the income and the taxable income of the corporation for any fiscal year of the corporation during which it was a bankrupt and for any subsequent fiscal year shall be calculated as if,
 - (i) the property of the bankrupt did not pass to and vest in the trustee in bankruptcy on the receiving order being made or the assignment filed but remained vested in the bankrupt, and
 - (ii) any dealing in the estate of the bankrupt or any act performed in the carrying on of the business of the bankrupt estate by the trustee was done as agent on behalf of the bankrupt and any income of the trustee from

such dealing or carrying on is income of the bankrupt and not of the trustee;

- (d) a fiscal year of the corporation shall be deemed to have commenced on the day the corporation became a bankrupt and a fiscal year of the corporation that would otherwise have ended after the corporation became a bankrupt shall be deemed to have ended on the day immediately before the day on which the corporation became a bankrupt;
- (e) where, in the case of any fiscal year of the corporation ending during the period the corporation is a bankrupt, the corporation fails to pay the tax payable by the corporation under this Act for any such fiscal year, the corporation and the trustee in bankruptcy are jointly and severally liable to pay the tax, except that,
 - (i) the trustee is only liable to the extent of the property of the bankrupt in his possession, and
 - (ii) payment by either of them shall discharge the joint obligation;
- (f) in the case of any fiscal year of the corporation ending during the period the corporation is a bankrupt, the corporation shall be deemed not to be associated with any other corporation in the year; and
- (g) where an absolute order of discharge is granted in respect of the corporation, for the purposes of section 99 any loss of the corporation for any fiscal year preceding the fiscal year in which the order of discharge was granted is not deductible by the corporation in computing its taxable income for the fiscal year of the corporation in which the order was granted or any subsequent fiscal year. R.S.O. 1970, c. 91, s. 40 (1).

"Bankrupt"
and "estate
of bankrupt"
defined
R.S.C. 1970,
c. B-4

- (2) In this section, "bankrupt" and "estate of the bankrupt" have the meanings given to those expressions by the *Bankruptcy Act* (Canada). R.S.O. 1970, c. 91, s. 40 (2).

*Investment Corporations
and Mutual Fund Corporations*

Election
re capital
gains
dividend
1970-71, c. 63
(Can.)

- 109.**—(1) Where a corporation is an investment corporation, as defined by subsection 3 of section 130 of the *Income Tax Act* (Canada), or is a mutual fund corporation, as defined by sub-

section 8 of section 131 of such Act, and the corporation has elected in respect of the full amount of a dividend that has become payable by it at any particular time after 1971 in accordance with subsection 1 of section 131 of the *Income Tax Act* (Canada), ^{1970-71, c. 63 (Can.)}

- (a) the dividend shall be deemed to be a capital gains dividend to the extent that it does not exceed the corporation's capital gains dividend account as defined by paragraph b of subsection 6 of section 131 of the *Income Tax Act* (Canada) at the particular time; and
- (b) notwithstanding anything in this Act, any amount received by a corporation in a fiscal year as, on account of or in lieu of payment of, or in satisfaction of the dividend shall not be included in computing the corporation's income for the fiscal year as income from a share of the capital stock of the paying corporation, but shall be deemed to be a capital gain of the corporation for the fiscal year from the disposition of capital property.

(2) Where a corporation has in a fiscal year become entitled to a refund by virtue of subsection 2 of section 131 of the *Income Tax Act* (Canada), the Minister, ^{Capital gains refund to mutual fund corporation}

- (a) may upon mailing the notice of assessment for the fiscal year, refund without application therefor an amount equal to 25 per cent of its capital gains refund for the fiscal year determined under subsection 2 of section 131 of the *Income Tax Act* (Canada) for the same fiscal year; and
- (b) shall make such a refund after mailing the notice of assessment if application therefor has been made in writing by the corporation within 4 years from the end of the fiscal year.

(3) Instead of making a refund that might otherwise be made under subsection 2, the Minister may, where the corporation is liable or about to become liable to make any payment under this Act, apply the amount that would otherwise be refunded to that other liability and notify the corporation of that action. ^{Application to other liability}

(4) Section 78 does not apply to deem a dividend to have been paid by a corporation to any of its shareholders, or to deem any of the shareholders of a corporation to have received a dividend on any shares of the capital stock of the corporation, if at the time the dividend would, but for this subsection, be ^{Application of s. 78}

deemed by section 78 to have been so paid or received, as the case may be, the corporation was a mutual fund corporation.
New.

Non-Resident-Owned Investment Corporations

110.—(1) The income of a non-resident-owned investment corporation for a fiscal year shall be computed as if its only income was taxable capital gains and allowable capital losses referred to in clause *b* of section 12 from dispositions of taxable Canadian property or property that would be taxable Canadian property if at no time in the fiscal year the corporation had been resident in Canada. R.S.O. 1970, c. 91, s. 45 (1), *amended.*

(2) The taxable income of a non-resident-owned investment corporation for a fiscal year is its income determined under subsection 1, minus its net capital losses for fiscal years preceding and the fiscal year immediately following the fiscal year, as provided for by section 99.

1971 undistributed income and capital surplus on hand

(3) For the purposes of this Act,

(a) in computing the 1971 undistributed income on hand of a non-resident-owned investment corporation at any time, there shall be deducted the amount, if any, by which,

(i) the corporation's 1971 undistributed income on hand at that time otherwise determined,

exceeds

(ii) the corporation's surplus determined in prescribed manner at the end of its 1971 fiscal year, for fiscal years ending before 1972 for which it was not taxable under section 70 of the *Income Tax Act* (Canada) as it read in its application to the 1971 fiscal year; and

1970-71, c. 63
(Can.)

(b) in computing the 1971 capital surplus on hand of a non-resident-owned investment corporation at any time, there shall be added to the amount thereof otherwise determined the amount of the excess described in clause *a*.

Election re capital gains dividend

(4) Where at any particular time after 1971 a dividend has become payable by a non-resident-owned investment corporation to shareholders of any class of shares of its capital stock, if the corporation so elects in respect of the full amount of the dividend, in prescribed manner and in prescribed form and at or

before the particular time or the first day on which any part of the dividend was paid if that day is earlier than the particular time, the following rules apply,

- (a) the dividend shall be deemed to be a capital gains dividend to the extent that the portion thereof in excess of the corporation's 1971 undistributed income on hand immediately before the particular time does not exceed the corporation's capital gains dividend account immediately before the particular time; and
- (b) any amount received by another non-resident-owned investment corporation in a fiscal year as, on account or in lieu of payment of, or in satisfaction of the capital gains dividend shall not be included in computing the corporation's income for the fiscal year.

(5) In this section,

Interpre-
tation

- (a) "Canadian property" means property other than foreign property within the meaning given to that expression by section 206 of the *Income Tax Act* ^{1970-71, c. 63} (Canada);
- (b) "capital gains dividend account" of a non-resident-owned investment corporation at any particular time means the amount, if any, by which the aggregate of the following amounts in respect of the period commencing January 1, 1972 and ending immediately after its last fiscal year ending before the particular time, namely,
 - (i) the corporation's capital gains for fiscal years ending in the period from dispositions in the period of Canadian property or shares of another non-resident-owned investment corporation, and
 - (ii) amounts received by the corporation in the period as, on account or in lieu of payment of, or in satisfaction of capital gains dividends from other non-resident-owned investment corporations,

exceeds the aggregate of

- (iii) the corporation's capital losses for fiscal years ending in the period from dispositions in the period of Canadian property or shares

of another non-resident-owned investment corporation,

- (iv) 25 per cent of the amount, if any, by which the aggregate of the corporation's capital gains for fiscal years ending in the period from dispositions in the period of taxable Canadian property or property that would be taxable Canadian property if at no time in the period the corporation had been resident in Canada, exceeds the aggregate of its capital losses for those fiscal years from dispositions in the period of such property, and
- (v) all capital gains dividends that became payable by the corporation before the particular time;

(c) "non-resident-owned investment corporation" means a corporation incorporated in Canada that, throughout the whole of the period commencing on the later of June 18, 1971 and the day on which it was incorporated and ending on the last day of the fiscal year in respect of which the expression is being applied, complied with the following conditions,

- (i) all of its issued shares and all of its bonds, debentures and other funded indebtedness were,

- (A) beneficially owned by non-resident persons, other than any foreign affiliate as defined in paragraph *b* of subsection 1 of section 95 of the *Income Tax Act* (Canada),

- (B) owned by trustees for the benefit of non-resident persons or their unborn issue, or

- (C) owned by a non-resident-owned investment corporation, all of the issued shares of which and all of the bonds, debentures and other funded indebtedness of which were beneficially owned by non-resident persons or owned by trustees for the benefit of non-resident persons or their unborn issue, or by two or more such corporations,

- (ii) its income for each fiscal year ending in the period was derived from,

- (A) ownership of or trading or dealing in bonds, shares, debentures, mortgages, hypothecs, bills, notes, or other similar property or any interest therein,
 - (B) lending money with or without security,
 - (C) rents, hire of chattels, charterparty fees or remunerations, annuities, royalties, interest or dividends,
 - (D) estates or trusts, or
 - (E) disposition of capital property,
- (iii) not more than 10 per cent of its gross revenue for each fiscal year ending in the period was derived from rents, hire of chattels, charterparty fees or charterparty remunerations,
- (iv) its principal business in each fiscal year ending in the period was not,
- (A) the making of loans, or
 - (B) trading or dealing in bonds, shares, debentures, mortgages, hypothecs, bills, notes or other similar property or any interest therein,
- (v) it has, not later than 90 days after the commencement of its first fiscal year commencing after 1971 elected in prescribed manner to be taxed under section 133 of the *Income Tax Act*^{1970-71, c. 63 (Can.)} (Canada), and
- (vi) it has not, before the end of the last fiscal year in the period, revoked in prescribed manner the election so made by it, and it has paid the taxes payable for such fiscal year under section 133 of the *Income Tax Act* (Canada),

except that in no case shall a new corporation, within the meaning given to that expression by section 81, formed as a result of an amalgamation after June 18, 1971 of two or more predecessor corporations be regarded as a non-resident-owned investment corporation unless each of the predecessor corporations was, immediately before the amalgamation, a non-resident-owned investment corporation; and

- (d) "taxable dividend" does not include a capital gains dividend. *New.*

Non-resident-owned corporation deemed not to be Canadian or private corporation

111. Notwithstanding any other provision of this Act, a non-resident-owned investment corporation that would, but for this section, be a Canadian corporation or private corporation shall be deemed not to be a Canadian corporation or private corporation, as the case may be, except for the purposes of subsection 1 of section 77 and section 81. *New.*

Patronage Dividends

Deduction in computing income

112.—(1) Notwithstanding anything in this Part, there may be deducted, in computing the income of a corporation for a fiscal year, the aggregate of the payments made, pursuant to allocations in proportion to patronage, by the corporation,

- (a) within the fiscal year or within 12 months thereafter to its customers of the fiscal year; and
- (b) within the fiscal year or within 12 months thereafter to its customers of a previous fiscal year, the deduction of which from income of a previous fiscal year was not permitted. R.S.O. 1970, c. 91, s. 49 (1).

Limitation where non-member customers

(2) Notwithstanding subsection 1, if the corporation has not made allocations in proportion to patronage in respect of all its customers of the fiscal year at the same rate, with appropriate differences for different types or classes of goods, products or services, or classes, grades or qualities thereof, the amount that may be deducted under this section is an amount equal to the lesser of,

- (a) the aggregate of the payments mentioned in subsection 1; and
- (b) the aggregate of,
 - (i) the part of the income of the corporation for the fiscal year attributable to business done with members, and
 - (ii) the allocations in proportion to patronage made to non-member customers of the fiscal year. R.S.O. 1970, c. 91, s. 49 (2).

Interpretation

(3) For the purposes of this section,

- (a) "allocation in proportion to patronage" for a fiscal year means an amount credited by a corporation to a

customer of that fiscal year on terms that the customer is entitled to or will receive payment thereof, computed at a rate in relation to the quantity, quality or value of the goods or products acquired, marketed, handled, dealt in or sold, or services rendered by the corporation from, on behalf of or to the customer, whether as principal or as agent of the customer or otherwise, with appropriate differences in the rate for different classes, grades or qualities thereof, if,

- (i) the amount was credited,
 - (A) within the fiscal year or within 12 months thereafter, and
 - (B) at the same rate in relation to quantity, quality or value aforesaid as the rate at which amounts were similarly credited to all other customers of that fiscal year who were members or to all other customers of that fiscal year, as the case may be, with appropriate differences aforesaid for different classes, grades or qualities, and
 - (ii) the prospect that amounts would be so credited was held forth by the corporation to its customers of that fiscal year who were members or non-member customers of that fiscal year, as the case may be;
- (b) “consumer goods or services” means goods or services the cost of which was not deductible by the person in computing the income from a business or property;
 - (c) “customer” means a customer of a corporation and includes a person who sells or delivers goods or products to the corporation, or for whom the corporation renders services;
 - (d) “income of the corporation attributable to business done with members” of any fiscal year means that proportion of the income of the corporation for the fiscal year, before making any deduction under this section, that the value of the goods or products acquired, marketed, handled, dealt in or sold or services rendered by the corporation from, on behalf of, or for members, is of the total value of goods or products acquired, marketed, handled, dealt in or sold or services rendered by the corporation from, on behalf of, or for all customers during the fiscal year;

- (e) "member" means a person who is entitled as a member or shareholder to full voting rights in the conduct of the affairs of the corporation or of another corporation of which the corporation is a subsidiary wholly-owned corporation;
- (f) "non-member customer" means a customer who is not a member; and
- (g) "payment" includes,
 - (i) the issue of a certificate of indebtedness or shares of the corporation or of another corporation of which the corporation is a subsidiary wholly-owned corporation if the corporation or that other corporation has in the fiscal year or within 12 months thereafter disbursed an amount of money equal to the aggregate face value of all certificates or shares so issued in the course of redeeming or purchasing certificates of indebtedness or shares of the corporation or that other corporation previously issued,
 - (ii) the application by the corporation of an amount to a member's liability to the corporation, including, without restricting the generality of the foregoing, an amount applied in fulfilment of an obligation of the member to make a loan to the corporation and an amount applied on account of payment for shares issued to a member, pursuant to a by-law of the corporation, pursuant to statutory authority or at the request of the member, or
 - (iii) the amount of a payment or transfer by the corporation that, under subsection 2 of section 58, is required to be included in computing the income of a member. R.S.O. 1970, c. 91, s. 49 (4).

Holding forth
prospect of
allocations

(4) For the purpose of this section a corporation shall be deemed to have held forth the prospect that amounts would be credited to a customer of a fiscal year by way of allocation in proportion to patronage, if,

- (a) throughout the fiscal year the statute under which the corporation was incorporated or registered, its charter, articles of association or by-laws or its contract with the customer held forth the prospect that amounts would be so credited to customers who are members or non-member customers, as the case may be; or

- (b) prior to the commencement of the fiscal year or prior to such other day as may be prescribed for the class of business in which the corporation is engaged, the corporation has published an advertisement in prescribed form in a newspaper or newspapers of general circulation throughout the greater part of the area in which the corporation carried on business holding forth that prospect to customers who are members or non-member customers, as the case may be, and has filed copies of the newspapers with the Minister before the end of the 30th day of the fiscal year or within 30 days from the prescribed day, as the case may be. R.S.O. 1970, c. 91, s. 49 (5).

(5) For greater certainty, the amount of any payment pursuant to an allocation in proportion to patronage is the amount thereof determined before deducting any amount required by subsection 3 of section 135 of the *Income Tax Act* (Canada) to be deducted or withheld from that payment. *New.*

Amount of payment to customer
1970-71, c. 63 (Can.)

(6) Where a payment pursuant to an allocation in proportion to patronage, other than an allocation in respect of consumer goods or services, has been received by a corporation, the amount of the payment shall be included in computing the recipient's income for the fiscal year in which the payment was received and, without restricting the generality of the foregoing, where a certificate of indebtedness or a share was issued to a corporation pursuant to an allocation in proportion to patronage, the amount of the payment by virtue of the issue thereof shall be included in computing the recipient's income for the fiscal year in which the certificate or share was received and not in computing its income for the fiscal year in which the indebtedness was subsequently discharged or the share was redeemed. R.S.O. 1970, c. 91, s. 49 (7).

Payment to customer to be included in income

Co-operative Corporations

113.—(1) Notwithstanding any other provision of this Act, a co-operative corporation that would, but for this section, be a private corporation shall be deemed not to be a private corporation. *New.*

Co-operative corporation deemed not to be private corporation

(2) In this section, "co-operative corporation" means a corporation that was incorporated by or under a law of Canada or a province providing for the establishment of the corporation or respecting the establishment of co-operative corporations for the purpose of marketing, including processing incident to or connected therewith, natural products belonging to or acquired from its members or customers, of purchasing

Meaning of expression "co-operative corporation"

supplies, equipment or household necessities for or to be sold to its members or customers or of performing services for its members or customers, if,

- (a) the statute by or under which it was incorporated, its charter, articles of association or by-laws or its contracts with its members or its members and customers held forth the prospect that payments would be made to them in proportion to patronage;
- (b) none of its members, except other co-operative corporations, have more than one vote in the conduct of the affairs of the corporation; and
- (c) at least 90 per cent of its members are individuals or other co-operative corporations and at least 90 per cent of its shares, if any, are held by such persons. R.S.O. 1970, c. 91, s. 48 (4).

Credit Unions

Deductions
in computing
income

114.—(1) In computing the income for a fiscal year of a credit union or a savings and credit union, in this Act referred to as a “credit union”, that is a corporation,

- (a) there may be deducted as a reserve in respect of bonds, debentures, agreements of sale, mortgages or hypothecs, in lieu of any deduction in respect thereof under clause *n* of subsection 1 of section 24, such amount as may be claimed by the credit union, not exceeding a prescribed amount;
- (b) there may be deducted as a reserve in respect of debts owing to the credit union, other than any debt described in clause *a*, in lieu of any deduction in respect thereof under clause *n* of subsection 1 of section 24, such amount as may be claimed by the credit union, not exceeding a prescribed amount;
- (c) there shall be included any amount deducted under clause *a* or *b* as a reserve in computing the credit union’s income for the immediately preceding fiscal year; and
- (d) no deduction may be made under section 35.

Payments
pursuant to
allocations in
proportion to
borrowing

(2) Notwithstanding anything in this Part, there may be deducted, in computing the income for a fiscal year of a credit union that is a corporation, the aggregate of the pay-

ments made, pursuant to allocations in proportion to borrowing, by the credit union within the fiscal year or within 12 months thereafter to members of the credit union, to the extent that such payments were not deductible under this subsection in computing the income of the credit union for the immediately preceding fiscal year.

(3) For the purposes of this Act, any annual or other periodic amount paid or payable by a credit union to a member thereof in respect of his share in the credit union, other than any such amount paid or payable as or on account of capital, shall be deemed to have been paid or payable, as the case may be, by the credit union as interest and, when received by the member, to have been received by him as interest.

Amount paid
in respect
of member's
share deemed
paid as
interest

(4) Where a payment has been received by a corporation from a credit union in a fiscal year in respect of an allocation in proportion to borrowing, the amount thereof shall, if the money so borrowed was used by the corporation for the purpose of earning income from a business or property, otherwise than to acquire property the income from which would be exempt or to acquire a life insurance policy, be included in computing the corporation's income for the fiscal year.

Member's
income

(5) In this section,

Interpre-
tation

(a) "allocation in proportion to borrowing" for a fiscal year means an amount credited by a credit union to a person who was a member of the credit union in the fiscal year on terms that the member is entitled to or will receive payment thereof, computed at a rate in relation to,

(i) the amount of interest payable by the member on money borrowed from the credit union, or

(ii) the amount of money borrowed by the member from the credit union;

if the amount was credited within the fiscal year or within 12 months thereafter and at the same rate in relation to the amount of interest or money, as the case may be, as the rate at which amounts were similarly credited in the fiscal year to all other members of the credit union,

(b) "credit union" means a corporation, association or federation incorporated or organized as a credit union or co-operative credit society if,

(i) it derived its revenues primarily from,

- (A) loans made to, or cashing cheques for, members,
 - (B) bonds of, or guaranteed by, the Government of Canada or a province, or a Canadian municipality, or bonds of a municipal or public body performing a function of government in Canada,
 - (C) bonds of a corporation, commission or association not less than 90 per cent of the shares or capital of which was owned by the Government of Canada or a province or by a municipality in Canada, or
 - (D) loans made to a co-operative credit society of which it is a member, or
- (ii) the members thereof were corporations or associations,
- (A) incorporated or organized as credit unions, substantially all of which derived their revenues primarily from loans made to members or from bonds of or guaranteed by, the Government of Canada or of a province,
 - (B) incorporated, organized or registered under, or governed by a law of Canada or a province with respect to co-operatives, or
 - (C) incorporated or organized for charitable purposes,

or were corporations or associations no part of the income of which was payable to, or otherwise available for the personal benefit of, any shareholder or member thereof;

- (c) "member" of a credit union means a person who is entitled as a member or shareholder to full voting rights in the conduct of the affairs of the credit union.

Credit union
deemed not
to be private
corporation

(6) Notwithstanding any other provision of this Act, a credit union that would, but for this section, be a private corporation shall be deemed not to be a private corporation. *New.*

Insurance Corporations

115.—(1) For the purpose of this section, an “insurance corporation” or “insurer” means any corporation with or without share capital, to which section 138 of the *Income Tax Act* (Canada) applies. R.S.O. 1970, c. 91, s. 41 (1). Interpretation
1970-71, c. 63
(Can.)

(2) Notwithstanding any other provision of this Act and in order that insurance corporations or insurers may be dealt with under this Act as they will be dealt with under Part I of the *Income Tax Act* (Canada), it is hereby declared that for the purpose of section 8, the taxable incomes of such corporations that transact business in Ontario shall, for the purposes of this Act, be the same as the taxable incomes of such corporations as determined for the purposes of Part I of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 41 (2). Calculation
of taxable
income

116. Where a life insurance corporation that is incorporated under the laws of a province has applied an amount in payment for shares of the corporation purchased by it under the authority of a law of the province that provides for the conversion of the corporation into a mutual corporation by the purchase of its shares in accordance with the provisions of such law, Conversion of
provincial
life
insurance
corporation
into mutual
corporation

- (a) section 19 does not apply to require the inclusion, in computing the income of a shareholder of the corporation of any part of that amount; and
- (b) no part of that amount shall be deemed, for the purposes of subsection 2 of section 115, to have been paid to shareholders or, for the purposes of section 78, to have been received as a dividend. R.S.O. 1970, c. 91, s. 42.

117. Notwithstanding any other provision of this Act, a life insurance corporation that is resident in Canada shall be deemed to be a public corporation. *New.* Life
insurance
corporation
deemed
to be public
corporation

DIVISION G—DEFERRED AND

OTHER SPECIAL INCOME ARRANGEMENTS

Employees Profit Sharing Plans

118.—(1) In this Act, “employees profit sharing plan” means an arrangement under which payments computed by reference to the profits from the business of a corporation or by reference to the profits from the business of a corporation and the profits, if any, from the business of a person with whom the corporation does not deal at arm’s length are made by the corporation to a trustee in trust for the benefit of officers or employees of the corporation or of a person with “Employees
profit sharing
plan” defined

whom the corporation does not deal at arm's length, whether or not payments are also made to the trustee by the officers or employees, and under which the trustee has, since the commencement of the plan or the end of 1949, whichever is later, each year allocated either contingently or absolutely to individual officers or employees,

- (a) all amounts received by him from the corporation or from a person with whom the corporation does not deal at arm's length;
- (b) all profits from the trust property computed without regard to any capital gain made by the trust or capital loss sustained by it at any time since the end of 1955;
- (c) all capital gains and capital losses of the trust for fiscal years ending after 1971; and
- (d) all amounts in respect of which employees who have, after 1971, ceased to be beneficiaries under the arrangement are deemed by subsection 9 of section 144 of the *Income Tax Act* (Canada) to have made a payment on account of tax under Part I of that Act,

1970-71, c. 63
(Can.)

in such manner that the aggregate of all such amounts, profits, gains and losses, minus such portion thereof as has been paid to beneficiaries under the trust, is allocated either contingently or absolutely to officers or employees who are beneficiaries thereunder.

No tax while
trust
governed
by a plan

(2) No tax is payable under this Part on the taxable income of a trust for a fiscal year during which the trust was governed by an employees profit sharing plan. R.S.O. 1970, c. 91, s. 51 (2).

Employer's
contribution
to trust
deductible

(3) An amount paid by a corporation to a trustee under an employees profit sharing plan during a fiscal year or within 120 days thereafter may be deducted in computing the corporation's income for the fiscal year to the extent that it was not deductible in computing income for a previous fiscal year. R.S.O. 1970, c. 91, s. 51 (3).

Payments
out of
profits

(4) Where the terms of an arrangement under which a corporation makes payments to a trustee specifically provide that the payments shall be made "out of profit", such arrangement shall, if the corporation has so elected under subsection 10 of section 144 of the *Income Tax Act* (Canada), be deemed

for the purpose of subsection 1, to be an arrangement for payments "computed by reference to the profits from the business of the corporation". R.S.O. 1970, c. 91, s. 51 (4).

(5) Where an employees profit sharing plan is accepted for registration by the Minister as a deferred profit sharing plan, the fiscal year of the trust governed by the employees profit sharing plan shall be deemed to have ended immediately before the plan is deemed to have become registered as a deferred profit sharing plan pursuant to subsection 5 of section 147 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 51 (5). ^{Fiscal year of trust} 1970-71, c. 63 (Can.)

*Registered Supplementary Unemployment
Benefit Plans*

119.—(1) In this Act,

Interpre-
tation

(a) "registered supplementary unemployment benefit plan" means a supplementary unemployment benefit plan accepted by the Minister for registration for the purposes of this Act in respect of its constitution and operations for the fiscal year under consideration; and

(b) "supplementary unemployment benefit plan" means an arrangement, other than an arrangement in the nature of superannuation or pension fund or plan or an employees profit sharing plan, under which payments are made by a corporation to a trustee in trust exclusively for the payment of periodic amounts to employees or former employees of the corporation who are or may be laid off for any temporary or indefinite period. R.S.O. 1970, c. 91, s. 52 (1).

(2) The Minister shall be deemed to have accepted for registration as a supplementary unemployment benefit plan under this Act every supplementary unemployment benefit plan that is accepted for registration by the Minister of National Revenue for Canada as a supplementary unemployment benefit plan under section 145 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 52 (2). ^{Plan deemed accepted}

(3) No tax is payable under this Part by a trust upon the taxable income of the trust for a period during which the trust was governed by a registered supplementary unemployment benefit plan. R.S.O. 1970, c. 91, s. 52 (3). ^{No tax while trust governed by plan}

(4) There shall be included in computing the income for a fiscal year of a corporation that, as an employer, has made ^{Amounts received on amendment or winding-up of plan}

any payment to a trustee under a supplementary unemployment benefit plan, any amount received by the corporation in the fiscal year as a result of an amendment to or modification of the plan or as a result of the termination or winding-up of the plan. R.S.O. 1970, c. 91, s. 52 (5).

Payments
by employer
deductible

(5) An amount paid by a corporation to a trustee under a registered supplementary unemployment benefit plan during a fiscal year or within 30 days thereafter may be deducted in computing the corporation's income for the fiscal year to the extent that it was not deductible in computing income for a previous fiscal year. R.S.O. 1970, c. 91, s. 52 (4).

Deferred Profit Sharing Plans

Interpre-
tation

120.—(1) In this Act,

- (a) "deferred profit sharing plan" means a profit sharing plan accepted by the Minister for registration for the purposes of this Act; and
- (b) "profit sharing plan" means an arrangement under which payments computed by reference to the profits of a corporation from its business or by reference to the profits of a corporation from its business and the profits, if any, from the business of a person with whom the corporation does not deal at arm's length are or have been made by the corporation to a trustee in trust for the benefit of employees of that corporation or employees of any other person, whether or not payments are or have been also made to the trustee by the employees. R.S.O. 1970, c. 91, s. 53 (1).

Acceptance
of plan for
registration

(2) The Minister shall be deemed to have accepted for registration as a deferred profit sharing plan under this Act every profit sharing plan that is deemed to be registered by the Minister of National Revenue for Canada as a deferred profit sharing plan under section 147 of the *Income Tax Act* (Canada), and such plan shall be deemed to have been registered by the Minister on the same date as it is deemed to be registered as a deferred profit sharing plan under subsection 5 of section 147 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 53 (2).

1970-71, c. 63
(Can.)

Deferred
plan not
employees
profit
sharing plan

(3) For a fiscal year during which a plan is a deferred profit sharing plan, the plan shall be deemed, for the purposes of this Act, not to be an employees profit sharing plan. R.S.O. 1970, c. 91, s. 53 (4).

(4) No tax is payable under this Part on the taxable income of the trust for a fiscal year during which the trust was governed by a deferred profit sharing plan. R.S.O. 1970, c. 91, s. 53 (5). No tax while trust governed by plan

(5) There may be deducted in computing the income of a corporation for a fiscal year the aggregate of each amount paid by the corporation in the fiscal year or within 120 days after the end of the fiscal year, to a trustee under a deferred profit sharing plan for the benefit of employees of the corporation who are beneficiaries under the plan, not exceeding, however, in respect of each individual employee in respect of whom the amounts so paid by the corporation were paid by it, an amount equal to the least of, Amount of employer's contribution deductible

- (a) the aggregate of each amount so paid by the corporation in respect of that employee;
- (b) \$2,500 minus the amount, if any, deductible under clause s of subsection 1 of section 24 in respect of that employee in computing the income of the corporation for the fiscal year; and
- (c) 20 per cent of the salary or wages paid in the fiscal year to the employee by the corporation,

to the extent that such amount was not deductible in computing the income of the employer for a previous fiscal year. R.S.O. 1970, c. 91, s. 53 (6), *amended*.

(6) Notwithstanding subsection 5, the amount that a corporation is entitled to deduct under subsection 5 in computing its income for a fiscal year shall be neither more nor less than the amount that it deducts and is allowed as a deduction in computing its income for the same fiscal year under subsections 8 and 9 of section 147 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 53 (7). Limitation on deduction 1970-71, c. 63 (Can.)

(7) Where funds or property of a trust governed by a deferred profit sharing plan have been appropriated in any manner whatsoever to or for the benefit of a corporation that is, Appropriation of trust property by employer

- (a) an employer by whom payments are made in trust to a trustee under the plan; or
- (b) a corporation with whom that employer does not deal at arm's length,

otherwise than in payment of or on account of shares of the capital stock of either that employer or the corporation, as

the case may be, purchased by the trust, the amount or value of the funds or property so appropriated shall be included in computing the income of the employer or the corporation, as the case may be, for the fiscal year in which the funds or property were so appropriated, unless such funds or property or an amount in lieu thereof equal to the amount or value of such funds or property were repaid to the trust within one year from the end of the fiscal year, and it is established by subsequent events or otherwise that the repayment was not made as part of a series of appropriations and repayments. R.S.O. 1970, c. 91, s. 53 (8).

Revocation of
registration

(8) The Minister shall be deemed to have revoked the registration of a profit sharing plan as a deferred profit sharing plan as and when the Minister of National Revenue for Canada revokes it under subsection 14 of section 147 of the *Income Tax Act* (Canada). R.S.O. 1970, c. 91, s. 53 (3).

1970-71, c. 63
(Can.)

Rules
applicable
to revoked
plan

(9) Where the Minister is deemed to have revoked the registration of a profit sharing plan as a deferred profit sharing plan under subsection 8, the plan, hereinafter referred to as the "revoked plan", shall be deemed, for the purposes of this Act, not to be a deferred profit sharing plan, and, notwithstanding any other provision of this Act, the following rules shall apply,

- (a) subsection 4 does not apply to exempt the trust governed by the plan from tax under section 8 upon the taxable income of the trust for a fiscal year in which, at any time therein, the trust was governed by the revoked plan;
- (b) no deduction shall be made by a corporation in computing its income for a fiscal year in respect of an amount paid by it under the plan at a time when it was a revoked plan;
- (c) there shall be included in computing the income of a corporation for a fiscal year the amount or value of any funds or property appropriated to or for the benefit of the corporation in the fiscal year that, by virtue of subsection 7, would have been so included if the revoked plan had been a deferred profit sharing plan at the time of the appropriation of the funds or property;
- (d) the revoked plan shall be deemed, for the purposes of this Act, not to be an employees profit sharing plan. R.S.O. 1970, c. 91, s. 53 (9).

(10) Where the terms of an arrangement under which a corporation makes payments to a trustee specifically provide that the payments shall be made "out of profits", such arrangement shall be deemed, for the purpose of clause *b* of subsection 1 to be an arrangement for payments "computed by reference to the profits of a corporation from its business". R.S.O. 1970, c. 91, s. 53 (10). Payments
out of
profits

Life Insurance Policies

121. Where the provisions of subsection 2 of section 142 of the *Income Tax Act* (Canada) or section 148 of that Act apply to a corporation, it is hereby declared that the amount to be included in its income for a fiscal year for the purposes of this section shall be the same as is required to be included for the purposes of subsection 2 of section 142 of the *Income Tax Act* (Canada) or section 148 of that Act for the same fiscal year. Amounts
included in
computing
policy-
holder's
income
1970-71, c. 63
(Can.)

DIVISION H—EXEMPTIONS

122.—(1) No tax is payable under this Part upon the taxable income of a corporation for a period when that corporation was, Exemptions:

- (a) a municipality in Canada, or a municipal or public body performing a function of government in Canada; R.S.O. 1970, c. 91, s. 5 (42) (a). Municipal
authorities
- (b) a corporation, commission or association not less than 90 per cent of the shares or capital of which was owned by Her Majesty in right of Canada or a province or by a Canadian municipality, or a wholly-owned corporation subsidiary to such a corporation, commission or association but this clause does not apply, Municipal
or provincial
corporations
 - (i) to such corporation, commission or association if a person other than Her Majesty in right of Canada or a province or a Canadian municipality had, during the period, a right under a contract, in equity or otherwise either immediately or in the future and either absolutely or contingently, to, or to acquire, shares or capital of that corporation, commission or association, and
 - (ii) to such wholly-owned subsidiary corporation if a person other than Her Majesty in right of Canada or a province or a Canadian municipality had, during the period, a right under a contract, in equity or otherwise, either immedi-

ately or in the future and either absolutely or contingently, to, or to acquire, shares or capital of that wholly-owned subsidiary corporation or of the corporation, commission or association of which it is a wholly-owned subsidiary corporation; R.S.O. 1970, c. 91, s. 5 (42) (b).

Certain
organizations

- (c) an agricultural organization, a board of trade or a chamber of commerce, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof; R.S.O. 1970, c. 91, s. 5 (42) (c).

Charitable
organizations

- (d) a charitable organization all the resources of which were devoted to charitable activities carried on by the organization itself and no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof; R.S.O. 1970, c. 91, s. 5 (42) (d).

Non-profit
corporation

- (e) a corporation that was constituted exclusively for charitable purposes, no part of whose income was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof, that has not, since June 1, 1950, acquired control of any other corporation and that, during the period,

- (i) did not carry on any business,

- (ii) had no debts incurred since June 1, 1950, other than obligations arising in respect of salaries, rents and other current operating expenses, and

- (iii) except in the case of a corporation that was, before 1940, constituted exclusively for charitable purposes, expended amounts each of which is,

- (A) an expenditure in respect of charitable activities carried on by the corporation itself,

- (B) a gift to an organization in Canada the income of which for the period is exempt from tax under this Part by virtue of clause *d*,

(C) a gift to a corporation resident in Canada the income of which for the period is exempt from tax under this Part by virtue of this clause, or

(D) a gift to Her Majesty in right of Canada or a province or to a Canadian municipality,

and the aggregate of which is not less than 90 per cent of the corporation's income for the period; R.S.O. 1970, c. 91, s. 5 (42) (e).

(f) a corporation that was constituted exclusively for the purpose of providing low-cost housing accommodation for the aged, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof; R.S.O. 1970, c. 91, s. 5 (42) (g). Certain housing corporations

(g) a corporation that was constituted exclusively for the purpose of carrying on or promoting scientific research, no part of whose income was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof, that has not acquired control of any other corporation and that, during the period, Non-profit corporation for scientific research

(i) did not carry on any business, and

(ii) expended amounts in Canada each of which is,

(A) an expenditure on scientific research directly undertaken by or on behalf of the corporation, or

(B) a payment to an association, university, college or research institution, described in subclause ii or iii of clause *a* of subsection 1 of section 39 to be used for scientific research,

and the aggregate of which is not less than 90 per cent of the corporation's income for the period; R.S.O. 1970, c. 91, s. 5 (42) (f).

(h) a labour organization or society or a benevolent or fraternal benefit society or order; R.S.O. 1970, c. 91, s. 5, (42) (h). Labour organizations

- Non-profit organizations (i) a club, society or association organized and operated exclusively for social welfare, civic improvement, pleasure or recreation or for any other purpose except profit, no part of the income of which was payable to, or was otherwise available for the personal benefit of, any proprietor, member or shareholder thereof; R.S.O. 1970, c. 91, s. 5 (42) (i).
- Mutual insurance corporations (j) a mutual insurance corporation that received its premiums wholly from the insurance of churches, schools or other charitable organizations; R.S.O. 1970, c. 91, s. 5 (42) (j).
- Housing corporation (k) a limited dividend housing corporation within the meaning of that expression as defined by the *National Housing Act* (Canada); R.S.O. 1970, c. 91, s. 5 (42) (l).
- R.S.C. 1970, c. N-10
- Pension corporation (l) a corporation established or incorporated solely in connection with, or for the administration of, a registered pension fund or plan; R.S.O. 1970, c. 91, s. 5 (42) (p).
- Farmers' and fishermen's insurers (m) an insurer, who was engaged during the period in no business other than insurance, if, in the opinion of the Minister on the advice of the Superintendent of Insurance, 50 per cent of its gross premium income for the period was in respect of the insurance of farm property, property used in fishing or residences of farmers or fishermen. R.S.O. 1970, c. 91, s. 5 (42) (s).
- Income not to include taxable capital gains (2) For the purposes of clauses c to g inclusive of subsection 1 and clause i of subsection 1, in computing the part, if any, of any income that was payable to or otherwise available for the personal benefit of any corporation or the aggregate of any amounts that is not less than a percentage specified in any of those clauses of any income for a period, the amount of such income shall be deemed to be the amount thereof otherwise determined less the amount of any taxable capital gains included therein. *New.*
- subs. 1 not applicable (3) Subsection 1 does not apply in respect of the taxable income of a benevolent or fraternal benefit society or order from carrying on a life insurance business. R.S.O. 1970, c. 91, s. 5 (43).
- Idem (4) For the purposes of subsection 3, the taxable income of a benevolent or fraternal benefit society or order from carrying on a life insurance business shall be computed on the

assumption that it had no income or loss from any other sources. R.S.O. 1970, c. 91 s. 5 (44).

(5) Where it is necessary for the purpose of this section to ascertain the taxable income of a corporation for a period that is a part of a fiscal year, the taxable income for the period shall be deemed to be the proportion of the taxable income for the fiscal year that the number of days in the period is of the number of days in the fiscal year. R.S.O. 1970, c. 91, s. 5 (45). Apportionment rule

(6) For the purpose of clause *e* of subsection 1,

When deemed
not to have
acquired
control of
another
corporation

(a) a corporation is controlled by another corporation if more than 50 per cent of its issued share capital, having full voting rights under all circumstances, belongs to,

(i) the other corporation, or

(ii) the other corporation and persons with whom the other corporation does not deal at arm's length,

but the corporation shall be deemed not to have acquired control of another corporation if it has not purchased, or otherwise acquired for a consideration, any of the shares in the capital stock of that other corporation;

(b) there shall be included in computing a corporation's income all gifts received by the corporation other than, Gifts

(i) a gift received subject to a trust or direction that the property given, or property substituted therefor, is to be held permanently by the corporation for the purpose of gaining or producing income therefrom, or

(ii) a gift or a portion of a gift in respect of which it is established that the donor has not been allowed a deduction under clause *a* of subsection 1 of section 98 or a gift made by a person who was not taxable under section 2 of the *Income Tax Act* (Canada) for the fiscal year in which the gift was made. R.S.O. 1970, c. 91, s. 5 (46). 1970-71,
c. 63 (Can.)

(7) For the purpose of clause *g* of subsection 1,

Idem

(a) a corporation is controlled by another corporation if more than 50 per cent of its issued share capital,

having full voting rights under all circumstances, belongs to,

- (i) the other corporation, or
- (ii) the other corporation and persons with whom the other corporation does not deal at arm's length,

but a corporation shall be deemed not to have acquired control of a corporation if it has not purchased, or otherwise acquired for a consideration, any of the shares in the capital stock of that corporation; and

- (b) there shall be included in computing a corporation's income all gifts received by the corporation and all amounts contributed to the corporation to be used for scientific research. R.S.O. 1970, c. 91, s. 5 (47).

Rules

(8) In computing the income of a corporation for the purpose of determining whether it is described by clause *e* or *g* of subsection 1 for a fiscal year,

- (a) there may be deducted an amount not exceeding its income for the year preceding the fiscal year computed without including or deducting any amount under this subsection; and
- (b) there shall be included any amount that has been deducted under this subsection for the immediately preceding fiscal year. R.S.O. 1970, c. 91, s. 5 (48).

Election by charitable corporation

(9) For the purpose of determining whether a corporation has complied with the requirements of subclause iii of clause *e* of subsection 1 or subclause ii of clause *g* of subsection 1 for its first fiscal year after its incorporation, the whole or any part of amounts expended by it in the immediately subsequent fiscal year shall, if it so elects, be deemed to have been expended by it in the first fiscal year and not in the subsequent fiscal year. R.S.O. 1970, c. 91, s. 5 (49).

PART III

DIVISION A—LIABILITY FOR CAPITAL TAX

Liability for capital tax

123. Except as otherwise provided in this Part, every corporation that is liable to the taxes imposed under this Act shall pay a capital tax as hereinafter required,

- (a) in the case of a corporation to which subsection 1 of section 2 applies, upon its taxable paid-up capital determined in accordance with Division B of this Part; and
- (b) in the case of a corporation to which clause *a* or *b* of subsection 2 or 3 of section 2 applies, upon its taxable paid-up capital employed in Canada determined in accordance with Division C of this Part. R.S.O. 1970, c. 91, s. 4 (1), *amended*.

124. Except as provided in section 125, the taxable paid-up ^{Taxable} capital of a corporation shall be measured as at the close of the ^{paid-up} fiscal year for which the tax imposed by section 123 is levied ^{capital} and is its taxable paid-up capital determined under Division B of this Part. R.S.O. 1970, c. 91, s. 69.

125. Notwithstanding section 124, the taxable paid-up ^{Idem} capital of a corporation that is liable to the taxes imposed under this Act by virtue of clause *a* or *b* of subsection 2 or 3 of section 2, referred to in this Part as "taxable paid-up capital employed in Canada", shall be measured as at the close of the fiscal year for which the tax imposed by section 123 is levied and is its taxable paid-up capital employed in Canada determined under Division C of this Part. R.S.O. 1970, c. 91, s. 6 (17).

DIVISION B—COMPUTATION OF TAXABLE PAID-UP CAPITAL

126. The paid-up capital of a corporation for a fiscal year ^{World} is its paid-up capital as it stood at the close of the fiscal year ^{paid-up} and includes ^{capital},

- (a) the paid-up capital stock of the corporation;
- (b) its earned, capital and any other surplus;
- (c) all its reserves, whether created from income or otherwise, except any reserve the creation of which is allowed as a charge against income under the provisions of Part II, except clause *p* of subsection 1 of section 24 thereof;
- (d) all sums or credits advanced or loaned to the corporation by its shareholders directly or indirectly or by any other corporation, excluding such sums or credits of a non-capital nature advanced or loaned to the corporation by a bank; and
- (e) all its indebtedness, whether assumed or undertaken by it, represented by bonds, bond mortgages, de-

bentures, income bonds, income debentures, mortgages, lien notes and any other securities to which the property of the corporation or any of it is subject. R.S.O. 1970, c. 91, s. 70, *amended*.

Deductions
from paid-up
capital

127.—(1) For the purpose of computing the taxable paid-up capital of a corporation for a fiscal year, there may be deducted from its paid-up capital as at the close of the fiscal year such of the following amounts as are applicable,

Goodwill

- (a) the amount of the goodwill or other intangible thing included as an asset to the extent that such goodwill or other intangible thing in the opinion of the Minister has no value, but this deduction applies to no more than 50 per cent of the book value of such goodwill or other intangible thing;

Discount on
shares
R.S.O. 1970,
c. 89

- (b) the amount of the discount allowed on the sale of the shares of a corporation to which Part IV of *The Corporations Act* applies;

Investments

- (c) the amount that equals that proportion of the paid-up capital remaining after the deduction of the amounts provided by clauses *a* and *b* which the cost of the investments made by the corporation in the shares and bonds of other corporations, in loans and advances to other corporations and in the bonds, debentures and other securities of any government, municipal or school corporation bears to the total assets of the corporation remaining after the deductions of the amounts provided by clauses *a* and *b*, but cash on deposit with any corporation doing the business of a savings bank and amounts due by a corporation with its head office outside Canada to a subsidiary controlled corporation or a subsidiary wholly-owned corporation taxable under this Part shall be deemed not to be loans and advances to other corporations;

Capital
held in
mining

- (d) in the case of a corporation engaged in mining, the amount that equals that proportion of the paid-up capital remaining after the deduction of the amounts provided by clauses *a*, *b* and *c* which the total of,

- (i) the amount held or used in the survey for exploration and development of minerals,

- (ii) the amount invested in the mine as defined by *The Mining Tax Act*,

R.S.O. 1970,
c. 275

- (iii) the amount invested in the plant and works necessary to and forming part of such mine, and
- (iv) the amount invested in the plant and works necessary for the refinement of the ore taken from the mine,

bears to the total assets remaining after the deduction of the amounts provided by clauses *a*, *b* and *c*. R.S.O. 1970, c. 91, s. 71 (1).

(2) For the purpose of this Part, “any other surplus”, ^{Interpretation} “total assets” and “cost of investments” includes any amount,

- (a) by which any asset of a corporation is carried in its books of account or on its balance sheet in excess of the cost thereof;
- (b) by which the value of an asset of a corporation has been written down and deducted from its income or undivided profits where such amount is not deductible under Part II;
- (c) the original cost of any asset to which subclause ii, iii or iv of clause *d* of subsection 1 applies,

and excludes any amount,

- (d) by which the value of an asset of a corporation has been written down and deducted from its income or undivided profits where such amount is deductible under the provisions of Part II except clause *p* of subsection 1 of section 24 thereof. R.S.O. 1970, c. 91, s. 71 (2), *amended*.

(3) In computing taxable paid-up capital or taxable paid-up ^{Artificial} capital employed in Canada, as the case may be, no reduction may be made with respect to any transaction that, if permitted, would unduly or artificially reduce the taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be. *New*.

DIVISION C—COMPUTATION OF TAXABLE PAID-UP CAPITAL EMPLOYED IN CANADA OF NON-RESIDENT

128. Notwithstanding section 126, the paid-up capital ^{Paid-up capital} employed in Canada of a corporation that is liable to the ^{employed} taxes imposed under this Act by virtue of clause *a* or *b* of ^{in Canada} subsection 2 or 3 of section 2, shall be deemed to be either, ^{of non-resident}

- (a) the amount of which its taxable income earned in Canada determined for the purposes of this Act would be 8 per cent; or
- (b) the amount by which,
 - (i) the amount of the total assets of the corporation in Canada exceeds,
 - (ii) the amount of the indebtedness of the corporation relating to its permanent establishments in Canada but excluding therefrom all amounts that are advanced or loaned to its permanent establishments in Canada by the corporation itself or by any other corporation or its shareholders directly or indirectly excluding such amounts of a non-capital nature advanced or loaned to the corporation by a bank, and all other indebtedness that is represented by bonds, bond mortgages, debentures, income bonds, income debentures, mortgages, lien notes and any other securities to which the property in Canada or any of it is subject,

whichever is greater and in such case, this section shall apply as though,

- (c) the corporation had no permanent establishment outside Canada;
- (d) the paid-up capital employed in Canada as so determined were the total paid-up capital of the corporation; and
- (e) the taxable paid-up capital employed in Canada were allocated among the provinces and territories of Canada as prescribed by the regulations. R.S.O. 1970, c. 91, s. 6 (17), *amended*.

Taxable
paid-up
capital
employed
in Canada

129. The taxable paid-up capital employed in Canada of a corporation to which this Division applies is its paid-up capital employed in Canada determined under section 128 minus the aggregate of such of the deductions permitted under section 127 as may reasonably be considered wholly applicable on the assumption that the only assets of the corporation were assets pertaining exclusively to its permanent establishments in Canada. R.S.O. 1970, c. 91, s. 6 (17), *amended*.

Idem

130. In computing the paid-up capital employed in Canada of a corporation for the purpose of this Part there shall not be included the amount of the paid-up capital invested in a ship

or aircraft operated by such corporation in Canada if such corporation is entitled, in computing its income for a fiscal year, to exclude the income for a fiscal year earned in Canada from the operation of such ship or aircraft under clause *c* of subsection 1 of section 75. R.S.O. 1970, c. 91, s. 71 (3).

DIVISION D—COMPUTATION
OF CAPITAL TAX PAYABLE

131. The tax payable by a corporation under this Part upon its taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, in this section referred to as the “amount taxable”, is one-tenth of 1 per cent of the amount taxable. R.S.O. 1970, c. 91, s. 6 (1). Rate of
general
capital tax

132. There may be deducted from the tax otherwise payable under this Part by a corporation for a fiscal year an amount equal to one-tenth of 1 per cent of that portion of the taxable paid-up capital or taxable paid-up capital employed in Canada, as the case may be, which is deemed to be used by the corporation in the fiscal year in each jurisdiction outside Ontario determined under rules prescribed by the regulations. R.S.O. 1970, c. 91, s. 6 (4). Deduction
from tax
on paid-up
capital

133. Notwithstanding section 132, and except as provided in subsection 1 of section 135, the tax payable under this Part shall in no case be less than \$50. R.S.O. 1970, c. 91, s. 6 (2). Minimum
tax

134. The tax imposed by this Part is not payable by any corporation that is liable to a tax under section 138, 139, 140, 141, 142 or 143 or by any corporation that is liable to the taxes imposed under this Act by virtue only of clause *c* of subsection 2 or 3 of section 2. R.S.O. 1970, c. 91, s. 6 (3). Exemptions

135.—(1) Except as provided in subsection 1 of section 30 every corporation referred to in clauses *b, c, d, e, f, g, h, i, k, l* and *m* of subsection 1 of section 122 shall, in lieu of the taxes payable under section 131 or 133 pay a tax of \$5. R.S.O. 1970, c. 91, s. 6 (18), *amended*. Idem

(2) Every corporation referred to in clause *j* of subsection 1 of section 122 and every corporation referred to in section 114 shall, in lieu of the tax payable under section 131 or 133, pay a tax of \$50. R.S.O. 1970, c. 91, s. 6 (19), *amended*. Idem

136. Where a corporation has a fiscal year of less than 365 days, the tax otherwise payable by it under this Part shall be in the proportion thereof that the number of days of such fiscal year bears to 365, except that this section does not apply, Apportion-
ment of
capital tax

- (a) to any corporation to which section 133 or 135 applies; or
- (b) to any corporation the fiscal year of which does not end on the same date each year, but that has been accepted for purposes of assessment under this Act. R.S.O. 1970, c. 91, s. 7.

Idem

137. Where the exemption under section 122 applies to a part of a fiscal year only, the provisions of subsections 1 and 2 of section 135 do not apply, and in any such case the tax otherwise payable under this Part shall be in the proportion thereof that the number of days of the fiscal year for which the exemption under subsection 1 of section 122 does not apply, bears to 365, except that the tax payable under this Part as reduced by this section shall in no case be less than \$50. *New.*

PART IV

LIABILITY FOR SPECIAL TAXES

Banks,
taxes on
paid-up
capital

138.—(1) Every bank shall for every fiscal year thereof pay,

- (a) a tax of one-fifth of 1 per cent of the paid-up capital stock thereof and one-tenth of 1 per cent on the reserve fund and undivided profits thereof;
- (b) an additional tax of \$3,000 for the principal office in Ontario and \$200 for each additional office, branch or agency in Ontario, but in the case of such additional offices, branches and agencies that were open during the fiscal year fewer than 250 days, one tax of \$200 shall apply for each 250 days or fraction thereof that such offices, branches and agencies were open. R.S.O. 1970, c. 91, s. 8 (1).

Reduction
in certain
cases

(2) Where the head office of a bank is outside Ontario and where it has not more than five offices, branches and agencies in Ontario, the Minister, having regard to the amount of business transacted in Ontario, may reduce the amount of tax imposed by clause *a* of subsection 1, but such tax shall in no case be less than one-tenth of 1 per cent calculated on one-half of the paid-up capital stock. R.S.O. 1970, c. 91, s. 8 (2).

Railways,
mileage tax

139.—(1) Every corporation that operates or uses a railway shall for every fiscal year thereof pay a tax of \$60 per mile for one track, and, where the line consists of two or more tracks, of \$40 per mile for each additional track, operated or used in any municipality in Ontario, and of \$40 per mile

for one track, and, where the line consists of two or more tracks, of \$20 per mile for each additional track, in territory without municipal organization in Ontario, but a corporation that operates or uses a railway that, either by itself or in conjunction with any other railway leased by it or to which it is leased or with which it is amalgamated or together with which it forms one system, does not exceed 150 miles in length from terminal to terminal, whether or not one or both of such terminals are outside Ontario, shall, in lieu of such tax, pay a tax of \$15 per mile for one track in Ontario, and where the line consists of two or more tracks, of \$5 per mile for each additional track in Ontario, and, where the railway or system does not exceed thirty miles in length between such terminals, a tax of \$10 per mile for one track in Ontario and, where the line consists of two or more tracks, of \$5 per mile for each additional track in Ontario. R.S.O. 1970, c. 91, s. 9 (1).

(2) In addition to the tax imposed by subsection 1, every corporation that operates or uses a railway that, either by itself or in conjunction with any other railway leased by it or to which it is leased or with which it is amalgamated or together with which it forms one system, exceeds 150 miles in length from terminal to terminal, whether or not one or both of such terminals are outside Ontario, shall for every fiscal year of the corporation pay a tax of \$25 per mile for one track in Ontario, and, where the line consists of two or more tracks, of \$20 per mile for each additional track in Ontario. R.S.O. 1970, c. 91, s. 9 (2).

(3) Switches, spurs and sidings shall not be included in the measurement of track for the purposes of this section. R.S.O. 1970, c. 91, s. 9 (3).

140. Every corporation that owns, operates or uses a line or a part of a line of telegraph in Ontario for gain, including every corporation that owns, operates or uses a railway, shall for every fiscal year of the corporation pay a tax of 1 per cent upon the total amount of money invested by the corporation in such line or part thereof and the plant and works connected therewith; provided that a corporation that owns and a corporation that operates and uses any such line or part thereof are liable jointly and severally for the payment of such tax, but the total amount payable in respect of such line or part thereof and the works and plant connected therewith shall not exceed the total amount of tax imposed under this section, notwithstanding that the line or part thereof is owned, operated or used by more than one corporation. R.S.O. 1970, c. 91, s. 10.

Express
companies,
special tax

141. Every corporation that carries on the business of an express company over a railway in Ontario, including a corporation that owns, operates or uses a railway, shall for every fiscal year of the corporation pay a tax of \$800 for each 100 miles or fraction thereof up to but not exceeding a tax of \$10,000. R.S.O. 1970, c. 91, s. 11.

Car
companies,
special tax

142. Every corporation, except a corporation that owns, operates or uses a railway, that transacts in Ontario the business of operating, leasing or hiring sleeping or parlour or dining cars run upon or used upon any railway in Ontario, shall, for every fiscal year of the corporation, pay a tax of 1 per cent calculated upon the money invested in such cars in use in Ontario. R.S.O. 1970, c. 91, s. 12.

Insurance
companies

143.—(1) Every insurance corporation shall pay a tax of 2 per cent calculated on the gross premiums that become payable to the corporation or its agent or agents during the fiscal year in respect of business transacted in Ontario, other than premiums in respect of re-insurance ceded to the corporation by other insurance corporations and considerations for annuities, after deducting from such premiums,

(a) cash value of dividends credited to policyholders;

(b) premiums returned. R.S.O. 1970, c. 91, s. 13 (1).

Idem

R.S.O. 1970,
c. 224

(2) In addition to the tax payable under subsection 1, every corporation transacting business as an insurer for property insurance within the meaning of *The Insurance Act* and the regulations made thereunder shall pay a tax of one-half of 1 per cent calculated on the gross premiums that become payable to the corporation or its agent or agents during the fiscal year in respect of such business transacted in Ontario other than premiums in respect of re-insurance ceded to the corporation by other insurers after deducting from such premiums,

(a) cash value of dividends credited to policyholders;

(b) premiums returned. *New.*

Premiums
in respect of
business
transacted
in Ontario

(3) In determining the amount of taxes payable under subsections 1 and 2,

(a) every life insurance premium that becomes payable at the time the person insured is a resident of Ontario; and

(b) every other premium that by the terms of the policy or renewal thereof becomes payable in respect

of insurance of a person resident or property situate in Ontario at the time such premium becomes payable whether or not,

- (i) such premium is earned wholly or partly in Ontario,
- (ii) the business in respect of the policy is transacted wholly or partly in Ontario, or
- (iii) the payment of such premium is made wholly or partly in Ontario,

shall be deemed to be a premium payable in respect of business transacted in Ontario. R.S.O. 1970, c. 91, s. 13 (2).

(4) The tax imposed by subsection 1 is not payable in ^{Exemptions} respect of premiums payable under a contract of marine insurance or by,

- (a) mutual insurance corporations insuring agricultural and other non-hazardous risks on the premium note plan, the sole business of which is carried on in Ontario;
- (b) fraternal societies and mutual benefit societies as defined in *The Insurance Act*; or R.S.O. 1970,
c. 224
- (c) pension fund and employees' mutual benefit societies incorporated under or subject to *The Corporations Act*. R.S.O. 1970,
c. 89 R.S.O. 1970, c. 91, s. 13 (3).

(5) In this section, "marine insurance" means insurance ^{Marine insurance} against marine losses, that is to say, the losses incident to marine adventure, and may by the express terms of a contract or by usage of trade extend so as to protect the insured against losses on inland waters or by land or air which are incidental to any sea voyage. R.S.O. 1970, c. 91, s. 13 (4).

(6) Where it is established to the satisfaction of the Lieutenant Governor in Council that any jurisdiction discriminates unfairly by imposing taxes, fees and other monetary obligations on any insurance corporation or any particular class of insurance corporations organized under the laws of Canada or of Ontario and having their principal offices in Ontario that in the aggregate are in excess of comparable taxes, fees and monetary obligations imposed on any similar corporation or class of corporations organized under the laws of such jurisdiction, the Lieutenant Governor in Council may direct that any corporation or any class of corporations ^{Unfair discrimination}

organized under the laws of such jurisdiction and that transacts business in Ontario shall pay, in addition to the tax otherwise imposed by this section, a tax not exceeding the equivalent of such excess, and such additional tax is recoverable in the same manner as any other tax imposed by this Act. R.S.O. 1970, c. 91, s. 13 (5).

Fiscal year (7) For the purposes of this Act, the fiscal year of every insurance corporation shall be deemed to end on the 31st day of December. R.S.O. 1970, c. 91, s. 13 (6).

Idem **144.** Where a corporation has a fiscal year of less than 365 days the tax otherwise payable by it under this Part shall be in the proportion thereof that the number of days of such fiscal year bears to 365, except that this section does not apply to any corporation to which the provisions of section 143 applies. R.S.O. 1970, c. 91, s. 7.

PART V

RETURNS, PAYMENTS, ASSESSMENTS AND APPEALS

DIVISION A—RETURNS

Annual return **145.**—(1) Every corporation on which a tax is imposed by this Act shall, on or before the last day of the month that ends six months following the close of its fiscal year, without notice or demand, and every corporation on which a tax is or is not imposed by this Act shall, upon receipt of a notice or demand in writing from the Minister or from any officer of the Ministry of Revenue authorized by the Minister to make such demand, deliver to the Minister such return as is required for the purpose of carrying out the provisions of this Act. R.S.O. 1970, c. 91, s. 73 (1).

Verification of returns (2) The return shall contain an estimate of the respective taxes payable and shall be verified by a certificate certifying that the financial statements included in the return or attached thereto are in agreement with the books of the corporation, and such certificate shall be signed by the president or some other officer having personal knowledge of the affairs of the corporation and, in the case of an extra-provincial corporation, by the manager or chief agent of the corporation in Ontario or by such other person or persons connected with the corporation as the Minister requires. R.S.O. 1970, c. 91, s. 73 (2).

Penalty for default **146.**—(1) Every corporation that fails to deliver a return as and when required by subsection 1 of section 145 shall pay a penalty of,

- (a) an amount equal to 5 per cent of the tax that was unpaid when the return was required to be delivered, if the tax payable by the corporation for the fiscal year that was unpaid at that time was less than \$10,000; and
- (b) \$500, if at the time the return was required to be delivered tax payable by the corporation equal to \$10,000 or more was unpaid.

(2) Every corporation that fails to complete the information ^{Failure to complete return} required on the return to be delivered under subsection 1 of section 145 is liable to a penalty of 1 per cent of the taxes payable by it under this Act, but such penalty shall not in any case be less than \$20 or more than \$100. R.S.O. 1970, c. 91, s. 74 (2).

(3) Every person who has,

^{False statements}

- (a) made, or participated in, assented to or acquiesced in the making of, false or deceptive statements in a return, certificate, statement or answer delivered or made as required by or under this Act or the regulations;
- (b) to evade payment of a tax imposed by this Act, destroyed, altered, mutilated, secreted or otherwise disposed of the records or books of account of a corporation;
- (c) made, or assented to or acquiesced in the making of, false or deceptive entries, or omitted, or assented to or acquiesced in the omission, to enter a material particular, in records or books of account of a corporation;
- (d) wilfully in any manner evaded or attempted to evade compliance with this Act or payment of taxes imposed by this Act; or
- (e) conspired with any person to commit an offence described by clauses *a* to *d*,

is guilty of an offence and, in addition to any penalty otherwise provided by this Act, is liable on summary conviction to a fine of not less than \$25 and not more than \$10,000 plus, in an appropriate case, an amount of not more than double the amount of the tax that should have been shown to be payable or that was sought to be evaded, or to imprisonment for a term of not more than two years, or to both fine and imprisonment. R.S.O. 1970, c. 91, s. 74 (3).

Statements
or omissions
in return

(4) Where a person, acting or purporting to act on behalf of a corporation, knowingly or under circumstances amounting to gross negligence in the carrying out of any duty or obligation imposed by or under this Act has made, or has participated in, assented to or acquiesced in the making of, a statement or omission in a return, certificate, statement or answer filed or made as required by or under this Act or the regulations, as a result of which the tax that would have been payable by the corporation for a fiscal year, if the tax had been assessed on the basis of the information provided in the return, certificate, statement or answer, is less than the tax payable by the corporation for the fiscal year, the corporation is liable to a penalty of 25 per cent of the amount by which the tax that would so have been payable is less than the tax payable by the corporation for the fiscal year. R.S.O. 1970, c. 91, s. 74 (4).

Extended
time for
making
returns

147. The Minister may enlarge the time for making any return before or after the time for making it. R.S.O. 1970, c. 91, s. 75.

DIVISION B—PAYMENTS

Taxes,
when to
accrue

148.—(1) The taxes imposed by this Act shall be deemed to accrue proportionately as the days of each fiscal year for which such taxes are imposed pass. R.S.O. 1970, c. 91, s. 76 (1).

Dates of
payment

(2) Every corporation on which a tax is imposed by this Act shall pay to the Treasurer of Ontario,

- (a) on or before the fifteenth day of each of the fifth, eighth and eleventh months of the fiscal year in respect of which the tax is payable and on or before the fifteenth day of the second month of the fiscal year following that in respect of which the tax is payable, an instalment equal to one-quarter of the tax payable as estimated by it at the rates for the fiscal year on,
 - (i) its estimated taxable income and other subject of tax for the fiscal year, or
 - (ii) its taxable income and other subject of tax for the immediately preceding fiscal year; and
- (b) on or before the last day on which a return is required to be delivered under subsection 1 of section 145, the balance, if any, of the tax payable as estimated by it on the return for the fiscal year. R.S.O. 1970, c. 91, s. 76 (2).

(3) Notwithstanding subsection 2, every corporation on which a tax is imposed by this Act, the fiscal year of which commenced after the 15th day of March, 1969, shall pay to the Treasurer of Ontario, ^{Dates of payment}

(a) on or before the fifteenth day of each of the third, fifth, seventh, ninth and eleventh months of the fiscal year in respect of which the tax is payable and on or before the fifteenth day of the first month of the fiscal year following that in respect of which the tax is payable, an instalment equal to one-sixth of the tax payable as estimated by it at the rates for the fiscal year on,

(i) its estimated taxable income and other subject of tax for the fiscal year, or

(ii) its taxable income and other subject of tax for the immediately preceding fiscal year; and

(b) on or before the last day on which a return is required to be delivered under subsection 1 of section 145, the balance, if any, of the tax payable as estimated by it on the return for the fiscal year. R.S.O. 1970, c. 91, s. 76 (3).

(4) Notwithstanding subsections 2 and 3 and subject to subsection 5 of section 149, where for the purposes of this section any corporation estimates the amount of tax payable for a fiscal year to be less than \$300, the corporation may, instead of paying the instalments required by subsection 2 or 3, pay such tax on or before the fifteenth day of the first month of the fiscal year following that in respect of which the tax is payable. R.S.O. 1970, c. 91, s. 76 (4). ^{Special cases}

149.—(1) Where the amount paid on account of tax payable by a corporation for a fiscal year before the expiration of the time allowed for delivering of the return of the corporation under section 145 is less than the amount of tax payable for the fiscal year, the corporation liable to pay the tax shall pay interest on the difference between those two amounts from the expiration of the time for delivering the return to the date of payment at such rate as is prescribed by the regulations. R.S.O. 1970, c. 91, s. 77 (1). ^{Interest on unpaid tax}

(2) Where a corporation is required by subsection 2, 3 or 4 of section 148 to pay all or a part or instalment of tax and it has failed to pay all or any part thereof as required, the corporation, in addition to the interest payable under subsection 1, shall pay interest, at such rate as is prescribed ^{Idem}

by the regulations, on the amount it failed to pay from the day on or before which it was required to make the payment to the day of payment or the beginning of the period in respect of which it becomes liable to pay interest thereon under subsection 1, whichever is earlier. R.S.O. 1970, c. 91, s. 77 (2).

Idem

(3) Where the Minister has reassessed the tax payable for a fiscal year under subsection 4 of section 150 and the tax payable is greater than the tax previously assessed for that fiscal year, the interest payable under subsection 2 and the penalty under subsection 1 of section 146 shall be assessed in accordance with the provisions of subsection 1 of section 150 provided,

- (a) that the provisions of this subsection shall not apply where subsection 3 or 4 of section 146 apply; and
- (b) the provisions of this subsection shall apply only with respect to instalments of tax due and payable before the thirtieth day following the date of such reassessment. *New.*

Effect of
carry-back
of loss

(4) Where a corporation is entitled to deduct under subsection 1 of section 99 in computing its taxable income for a taxation year an amount in respect of a loss sustained in the fiscal year immediately following the taxation year, hereinafter in this subsection referred to as "the loss year", for the purpose of computing interest and penalty interest under this section on tax or a part or instalment of tax for the taxation year for any portion of the period in respect of which the interest is payable on or before the last day of the loss year, the tax payable for the taxation year shall be deemed to be the amount that it would have been if the corporation were not entitled to deduct an amount under subsection 1 of section 99 in respect of that loss. R.S.O. 1970, c. 91, s. 77 (3).

Interest
on unpaid
tax

(5) For the purposes of calculating interest under subsection 2, where a corporation is required to pay a part or instalment of tax for a fiscal year as estimated by it on its taxable income and other subject of tax for a preceding fiscal year or on its estimated taxable income and other subject of tax for the fiscal year, it shall be deemed to have been liable to pay a part or instalment computed by reference to the taxable income and other subject of tax for,

- (a) the preceding fiscal year; or
- (b) the fiscal year,

whichever is the lesser. R.S.O. 1970, c. 91, s. 77 (4).

DIVISION C—ASSESSMENTS

150.—(1) The Minister shall with all due despatch examine each return delivered under section 145 and assess the tax for the fiscal year and the interest and penalties if any payable. R.S.O. 1970, c. 91, s. 78 (1). ^{Assessment of returns}

(2) After examination of a return, the Minister shall send, by mail or by registered mail or deliver by personal service a notice of assessment to the corporation that delivered the return. R.S.O. 1970, c. 91, s. 78 (2). ^{Notice of assessment}

(3) Liability for tax imposed by this Act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made. R.S.O. 1970, c. 91, s. 78 (3). ^{Continuation of liability for tax}

(4) The Minister may at any time assess tax, interest or penalties, or notify in writing any person by whom a return of income or other subject of tax for a fiscal year has been filed that no tax is payable for the fiscal year, and may, ^{Reassessment}

(a) at any time, if the corporation or person filing the return,

- (i) has made any misrepresentation or committed any fraud in filing the return or supplying any information under this Act, or
- (ii) has failed to file financial statements with the return required to be filed under section 145, or
- (iii) has been negligent in supplying any information under this Act, or
- (iv) has filed with the Minister a waiver in a prescribed form within six years from the day of mailing of a notice of an original assessment or of a notification that no tax is payable for a fiscal year, or
- (v) has claimed a deduction under clause *u* of subsection 1 of section 24; and

(b) within six years from the day referred to in sub-clause iv of clause *a*, in any other case,

reassess or make additional assessments or assess tax, interest or penalties, as the circumstances require. R.S.O. 1970, c. 91, s. 78 (4).

Idem

(5) Where a corporation has delivered the return required by section 145 for a fiscal year and, within one year from the day on or before it was required by section 145 to deliver a return for that fiscal year, has filed an amended return for the fiscal year claiming a deduction from income under subsection 1 of section 99 in respect of a loss sustained in the fiscal year immediately following that fiscal year, the Minister shall reassess the tax payable by the corporation for that fiscal year. R.S.O. 1970, c. 91, s. 78 (5).

Minister
not bound
by returns

(6) The Minister is not bound by a return or information delivered by or on behalf of a corporation and may, notwithstanding a return or information so delivered or if no return or information has been delivered, assess the tax payable under this Act. R.S.O. 1970, c. 91, s. 78 (6).

Assessment
valid and
binding

(7) An assessment, subject to being varied or vacated on an objection or appeal and subject to a reassessment, shall be deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding under this Act relating thereto. R.S.O. 1970, c. 91, s. 78 (7).

Payment of
assessment

151.—(1) Every corporation shall within thirty days from the day of mailing of the notice of assessment pay any part of the assessed tax, interest and penalties then remaining unpaid, whether or not an objection to or appeal from the assessment is outstanding. R.S.O. 1970, c. 91, s. 79 (1).

Idem

(2) Where in the opinion of the Minister a corporation is attempting to avoid payment of a tax imposed by this Act or where the Minister has assessed the tax payable under this Act pursuant to subsection 6 of section 150, he may, notwithstanding subsection 2 of section 150, serve the notice of assessment upon the corporation or the president, manager, secretary or any director, agent or representative thereof and direct that all taxes, penalties and interest as set out therein shall be paid forthwith. R.S.O. 1970, c. 91, s. 79 (2).

DIVISION D—REFUNDS OF OVERPAYMENTS

Refunds

152.—(1) If the return required to be delivered by a corporation under section 145 for a fiscal year has been delivered within four years from the end of that fiscal year, the Minister,

- (a) may, upon mailing the notice of assessment for the fiscal year, refund without application therefor any overpayment made on account of the tax payable for the fiscal year; and

- (b) shall make such a refund after mailing the notice of assessment if application therefor has been made in writing by the corporation within four years from the day on which the overpayment was made or the day on which the notice of assessment was mailed. R.S.O. 1970, c. 91, s. 80 (1).

(2) Instead of making a refund that might otherwise be made under this section, the Minister may, where the corporation is liable or about to become liable to make another payment under this Act, apply the amount of the overpayment to that other liability and notify the corporation of such action. R.S.O. 1970, c. 91, s. 80 (2).

(3) Where an amount in respect of an overpayment is refunded or applied under this section on other liability, interest at such rate as is prescribed by the regulations shall be paid or applied thereon for the period commencing with the latest of,

- (a) the day on which the overpayment arose;
- (b) the day on or before which the return of the corporation in respect of which the overpayment arose was required by section 145 to be delivered; or
- (c) the day on which the return of the corporation in respect of which the overpayment arose was delivered,

and ending with the day of refunding or application aforesaid, unless the amount of the interest so calculated is less than \$1, in which event no interest shall be paid or applied under this subsection. R.S.O. 1970, c. 91, s. 80 (3).

(4) Where by a decision of the Minister under section 154 or by a decision of a court it is finally determined that the tax payable under this Act by a corporation for a fiscal year is less than the amount assessed by the assessment under section 150 to which objection was made or from which the appeal was taken and the decision makes it appear that there has been an overpayment for the fiscal year, the interest payable under subsection 3 on that overpayment shall be computed at such rate as is prescribed by the regulations. R.S.O. 1970, c. 91, s. 80 (4).

(5) Where an amount has been paid with respect to the provisions of section 167 and the tax payable under this Act for the fiscal year as finally determined is less than the payment,

the interest payable on that overpayment shall, notwithstanding subsection 3, be computed at such rate as is prescribed for the purpose of subsection 4 as though the day on which the overpayment arose is the day upon which the payment was made. *New.*

Interpre-
tation

(6) Except as provided in subsection 5, for the purpose of this section, "overpayment" means the aggregate of all amounts paid on account of tax payable for a fiscal year minus all amounts payable under this Act or an amount so paid where no amount is so payable. R.S.O. 1970, c. 91, s. 80 (5).

Effect of
carry-back
of loss

(7) Where a corporation is entitled to deduct under subsection 1 of section 99 in computing its taxable income for a taxation year an amount in respect of a loss sustained in the fiscal year immediately following the taxation year, hereinafter in this subsection referred to as "the loss year", and the amount of the tax payable for the taxation year is relevant in determining an overpayment for the purpose of computing interest under subsection 3 for any portion of a period ending on or before the last day of the loss year, the tax payable for the taxation year shall be deemed to be the amount that it would have been if the corporation were not entitled to deduct an amount under subsection 1 of section 99 in respect of that loss. R.S.O. 1970, c. 91, s. 80 (6).

Credit
interest on
overpaid
instalments

153.—(1) Where instalments of tax as required by subsection 3 of section 148 are overpaid at any time prior to the day the return of the corporation in respect of which the overpaid instalments occurred was required by section 145 to be delivered or the day on which a refund was made upon assessment where such assessment is made before the day the return was due to be filed, whichever is earlier, interest at such rate as is prescribed for the purpose of subsection 3 of section 152 shall be allowed on the overpayment to the extent that interest has been otherwise assessed under subsection 2 of section 149 except that under no circumstances shall the credit interest so allowed exceed the interest otherwise assessed under that section.

Application

(2) Subsection 1 does not apply with respect to any amount to which subsection 5 of section 152 applies. *New.*

DIVISION E—OBJECTIONS TO ASSESSMENT

Notice of
objection

154.—(1) A corporation that objects to an assessment under section 150 may within ninety days from the day of mailing of the notice of assessment serve on the Minister

a notice of objection in duplicate in the prescribed form setting out the reasons for the objection and all relevant facts. R.S.O. 1970, c. 91, s. 81 (1).

(2) A notice of objection under this section shall be served^{Service} by being sent by registered mail addressed to the Minister. R.S.O. 1970, c. 91, s. 81 (2).

(3) The Minister may accept a notice of objection under this^{Idem} section notwithstanding that it was not served in duplicate or in the manner required by subsection 2. R.S.O. 1970, c. 91, s. 81 (3).

(4) Upon receipt of the notice of objection, the Minister^{Reconsideration} shall with all due despatch reconsider the assessment and vacate, confirm or vary the assessment or reassess and he shall thereupon notify the corporation of his action by registered letter. R.S.O. 1970, c. 91, s. 81 (4).

DIVISION F—APPEALS

155.—(1) Where a corporation has served notice of objection^{Appeal} to an assessment under section 154, the corporation may appeal to the Supreme Court to have the assessment vacated or varied after the Minister has confirmed or reassessed, but no appeal under this section may be instituted after the expiration of ninety days from the day notice has been mailed to the corporation under section 154 that the Minister has confirmed the assessment or reassessed. R.S.O. 1970, c. 91, s. 82 (1).

(2) An appeal to the Supreme Court shall be instituted^{Appeals, how instituted} by serving on the Minister a notice of appeal in duplicate in the prescribed form and by filing a copy thereof with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the corporation appealing has its head office or other permanent establishment. R.S.O. 1970, c. 91, s. 82 (2).

(3) A notice of appeal shall be served upon the Minister^{Notice of appeal} by being sent by registered mail addressed to the Minister. R.S.O. 1970, c. 91, s. 82 (3).

(4) The corporation appealing shall set out in the notice^{Statement of allegations} of appeal a statement of the allegations of fact, the statutory provisions and reasons that it intends to submit in supporting its appeal. R.S.O. 1970, c. 91, s. 82 (4).

Security
for costs

(5) An appeal by a corporation and all proceedings thereunder are, upon the expiration of sixty days from the day the appeal is instituted, null and void unless security for the costs of the appeal has been, within the said period, paid into court in the sum of \$400 or such other sum as the Minister requires and, upon an appeal becoming null and void by virtue of this subsection, no other appeal or proceedings shall be instituted in respect of the same decision. R.S.O. 1970, c. 91, s. 82 (5).

Idem

(6) When security has been given under subsection 5, notice thereof shall be served on the Minister specifying the fact and the purpose of the payment. R.S.O. 1970, c. 91, s. 82 (6).

Reply to
notice of
appeal

156.—(1) The Minister shall with all due despatch serve on the corporation appealing and file in the court a reply to the notice of appeal admitting or denying the facts alleged and containing a statement of such further allegations of fact and of such statutory provisions and reasons as the Minister intends to rely on. R.S.O. 1970, c. 91, s. 83 (1).

Amendment
of notice of
appeal

(2) The court or a judge may in its or his discretion strike out a notice of appeal or any part thereof for failure to comply with subsection 4 of section 155 and may permit an amendment to be made to a notice of appeal or a new notice of appeal to be substituted for the one struck out. R.S.O. 1970, c. 91, s. 83 (2).

Amendment
to reply

(3) The court or a judge may in its or his discretion,

(a) strike out any part of a reply for failure to comply with subsection 1 or permit the amendment of a reply; or

(b) strike out a reply for failure to comply with this section and order a new reply to be filed within a time to be fixed by the order. R.S.O. 1970, c. 91, s. 83 (3).

Failure to
comply

(4) Where a notice of appeal is struck out for failure to comply with subsection 4 of section 155 and a new notice of appeal is not filed as and when permitted by the court or a judge, the court or a judge thereof may, in its or his discretion, dispose of the appeal by dismissing it. R.S.O. 1970, c. 91, s. 83 (4).

Idem

(5) Where a reply is not filed as required by this section or is struck out under this section and a new reply is not filed as ordered by the court or a judge within the time ordered, the

court may dispose of the appeal *ex parte* or after a hearing on the basis that the allegations of fact contained in the notice of appeal are true. R.S.O. 1970, c. 91, s. 83 (5).

157.—(1) Upon the filing of the material referred to in sections 155 and 156 with the Registrar of the Supreme Court or the local registrar of the Supreme Court for the county or district in which the corporation appealing has its head office or permanent establishment, the matter shall be deemed to be an action in the court and, unless the court otherwise orders, ready for hearing. R.S.O. 1970, c. 91, s. 84 (1). Matter deemed action

(2) Any fact or statutory provision not set out in the notice of appeal or reply may be pleaded or referred to in such manner and upon such terms as the court directs. R.S.O. 1970, c. 91, s. 84 (2). Facts not set out may be pleaded

(3) The court may dispose of the appeal by, Disposal of appeal

(a) dismissing it;

(b) allowing it; or

(c) allowing it, and,

(i) vacating the assessment,

(ii) varying the assessment,

(iii) restoring the assessment, or

(iv) referring the assessment back to the Minister for reconsideration and reassessment. R.S.O. 1970, c. 91, s. 84 (3).

(4) The court may in delivering judgment disposing of an appeal order payment or refund of tax, interest, penalties or costs by the corporation or the Minister, as the case may be. R.S.O. 1970, c. 91, s. 84 (4). Court may order payment of tax, etc.

158. Proceedings under this Division shall be held *in camera* upon request made to the court by the corporation appealing or by the Minister. R.S.O. 1970, c. 91, s. 85. Proceedings in camera

159. The practice and procedure of the Supreme Court, including the right of appeal and the practice and procedure relating to appeals, apply to every matter deemed to be an action under section 157 and every judgment and order given Supreme Court practice to govern

or made in every such action may be enforced in the same manner and by the like process as a judgment or order given or made in an action commenced in the court. R.S.O. 1970, c. 91, s. 86.

Irregularities

160. An assessment shall not be vacated or varied on appeal by reason only of any irregularity, informality, omission or error on the part of any person in the observation of any directory provision of this Act. R.S.O. 1970, c. 91, s. 87.

PART VI

ADMINISTRATION AND ENFORCEMENT

Investigations

161.—(1) Any person thereunto authorized by the Minister for any purpose related to the administration or enforcement of this Act may at all reasonable times enter into any premises or place where any business is carried on or any property is kept or anything is done in connection with any business or any books or records are or should be kept pursuant to this Act, and,

- (a) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or the amount of tax payable under this Act;
- (b) examine property described by an inventory or any property, process or matter an examination of which may, in his opinion, assist him in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or records or the amount of any tax payable under this Act;
- (c) require the president, manager, secretary or any director, agent or representative of the corporation liable to pay or considered possibly liable to pay tax under this Act and any other person on the premises of such corporation to give him all reasonable assistance with his audit or examination and to answer all questions relating to the audit or examination either orally or, if he so requires, in writing, on oath or by statutory declaration and, for that purpose, require such person to attend at the premises or place with him; and

- (d) if during the course of an audit or examination it appears to him that there has been a violation of this Act or the regulations, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings. R.S.O. 1970, c. 91, s. 88 (1).

(2) The Minister may, for any purpose relating to the adminis-^{Idem}tration or enforcement of this Act, by registered letter or by a demand served personally, require from any corporation or from the president, manager, secretary, or any director, agent or representative thereof,

- (a) any information or additional information or a return as required by section 145 or a supplementary return; or
- (b) production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents,

within such reasonable time as is stipulated therein. R.S.O. 1970, c. 91, s. 88 (2).

(3) The Minister may, for any purpose related to the ad-^{Idem}ministration or enforcement of this Act, by registered letter or by a demand served personally, require from any person, partnership, syndicate, trust or corporation holding or paying or liable to pay any portion of the income of the corporation, or from any partner, agent or official of any such person, partnership, syndicate, trust or corporation, production, or production on oath, of any books, letters, accounts, invoices, statements, financial or otherwise, or other documents, within such reasonable time as is stipulated therein. R.S.O. 1970, c. 91, s. 88 (3).

(4) The Minister may, for any purpose related to the ad-^{Idem}ministration or enforcement of this Act, with the approval of a judge of the Supreme Court, which approval the judge is hereby empowered to give upon *ex parte* application, authorize in writing any officer of the Ministry of Revenue, together with such members of the provincial police or other peace officers as he calls on to assist him and such other persons as are named therein, to enter and search, if necessary by force, any building, receptacle or place for documents, books, records, papers or things that may afford evidence as to the violation of any provision of this Act or the regulations and to seize and take away any such documents, books, records, papers or things and retain them until they are produced in any court proceedings. R.S.O. 1970, c. 91, s. 88 (4).

Idem

(5) The Minister may, by registered letter or by a demand served personally, require the production, under oath or otherwise, by any person, partnership, syndicate, trust or corporation, or by his or its agent or officer, of any letters, accounts, invoices, statements, financial or otherwise, books or other documents in the possession or in the control of such person, partnership, syndicate, trust or corporation or of his or its agent or officer, for the purpose of determining what tax, if any, is payable under this Act by any corporation and production thereof shall be made within such reasonable time as is stipulated in such registered letter or demand. R.S.O. 1970, c. 91, s. 88 (5).

Idem

(6) The Minister may, for any purpose related to the administration or enforcement of this Act, authorize any person, whether or not he is an officer of the Ministry of Revenue, to make such inquiry as he deems necessary with reference to anything relating to the administration or enforcement of this Act. R.S.O. 1970, c. 91, s. 88 (6), *amended*.

Copies

(7) Where a book, record or other document has been seized, examined or produced under this section, the person by whom it is seized or examined or to whom it is produced or any officer of the Ministry of Revenue may make, or cause to be made, one or more copies thereof and a document purporting to be certified by the Minister or a person thereunto authorized by the Minister to be a copy made pursuant to this section is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way. R.S.O. 1970, c. 91, s. 88 (7), *amended*.

Compliance

(8) No person shall hinder or molest or interfere with any person doing anything that he is authorized by this section to do or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other law to the contrary, every person shall, unless he is unable to do so, do everything he is required by this section to do. R.S.O. 1970, c. 91, s. 88 (8).

Administra-
tion of
oaths

(9) Declarations or affidavits in connection with returns delivered under this Act or statements of information submitted pursuant to this section may be taken before any person having authority to administer an oath, or before any person specially authorized for that purpose by the Lieutenant Governor in Council, but any person so specially authorized shall not charge any fee therefor. R.S.O. 1970, c. 91, s. 88 (9).

Powers of
inquiry

1971, c. 49

(10) For the purpose of an inquiry authorized under subsection 6, the person authorized to make the inquiry has all the powers of a commission under Part II of *The Public Inquiries Act, 1971*, which Part applies to the inquiry as if it were an inquiry under that Act. R.S.O. 1970, c. 91, s. 88 (10), *amended*.

162.—(1) Every corporation that is required by this Act to pay taxes shall keep records and books of account, including an annual inventory kept in the same manner as is required for purposes of the *Income Tax Act* (Canada) and the regulations made thereunder at its permanent establishment in Ontario or at such other place as is designated by the Minister, in such form and containing such information as will enable the taxes payable under this Act to be determined. R.S.O. 1970 c. 91, s. 89 (1), *amended*. ^{Books and records 1970-71, c. 63 (Can.)}

(2) Where a corporation has failed to keep adequate records and books of account for the purpose of this Act, the Minister may require the corporation to keep such records and books of account as he specifies and the corporation shall thereafter keep records and books of account as so required. R.S.O. 1970, c. 91, s. 89 (2). ^{Idem}

(3) Every corporation required by this section to keep records and books of account shall, until written permission for their disposal is obtained from the Minister, retain every such record or book of account and every account or voucher necessary to verify the information in any such records or books of account. R.S.O. 1970, c. 91, s. 89 (3). ^{Idem}

163.—(1) Every corporation that has failed to deliver a return as and when required by this Act or the regulations is guilty of an offence and, in addition to any penalty otherwise provided, on summary conviction is liable to a fine of not less than \$25 for each day of default. R.S.O. 1970, c. 91, s. 90 (1). ^{Offences}

(2) Every person who has failed to comply with or contravened section 161 or 162 is guilty of an offence and, in addition to any penalty otherwise provided, on summary conviction is liable to a fine of \$25 for each day during which the default continues. R.S.O. 1970, c. 91, s. 90 (2). ^{Idem}

164. Where a corporation is guilty of an offence under this Act, any officer, director or agent of the corporation who directed, authorized, assented to, acquiesced in, or participated in, the commission of the offence is a party to and guilty of the offence and on summary conviction is liable to the punishment provided for the offence whether or not the corporation has been prosecuted or convicted. R.S.O. 1970, c. 91, s. 91. ^{Officers, etc., of corporations}

165. An information in respect of an offence against this Act shall be laid within six years of the time when the matter of the information arose. R.S.O. 1970, c. 91, s. 92. ^{Time for laying information}

Communica-
tion of
information

166.—(1) No person employed in the service of Her Majesty shall communicate or allow to be communicated to any person not legally entitled thereto any information obtained under this Act or allow any such person to inspect or have access to any written statement furnished under this Act. R.S.O. 1970, c. 91, s. 93 (1).

Offence
and
penalty

(2) Every person who contravenes any provision of this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$200. R.S.O. 1970, c. 91, s. 93 (2).

Exception

(3) Notwithstanding subsection 1, the Minister may, for the purpose of aiding in an investigation for taxation purposes under this or any other Act, enter into an agreement with the government of Canada or of any province under which officers of such government will be allowed access to information obtained or any written statement furnished under this Act and officers of the Government of Ontario will be allowed access to information obtained or any written statement furnished under any Act of such government. R.S.O. 1970, c. 91, s. 93 (3).

Collection

Priority
of tax

R.S.C. 1970,
c. B-4

167.—(1) All taxes, interest, penalties, costs and other amounts imposed under this Act are debts due to Her Majesty and, subject to the *Bankruptcy Act* (Canada), are a first lien and charge upon property in Ontario (except prescribed property) of the corporation liable to pay such taxes, interest, penalties, costs and other amounts. R.S.O. 1970, c. 91, s. 94 (1), *amended*.

Tax and
penalty
to be
lien on
property

(2) All taxes, interest, penalties, costs and other amounts imposed under this Act upon a corporation that owns, operates or uses a railway are a special lien on any property, real or personal, in which the corporation has any interest, legal or equitable (other than as lessee or under any agreement for running rights or operating rights) in priority to every claim, privilege, lien or encumbrance, whenever created, of every person, and the lien and its priority are not lost or impaired by any neglect, omission or error of any minister, officer, servant or agent of the Crown, or by want of registration. R.S.O. 1970, c. 91, s. 94 (2).

Garnishment

168.—(1) When the Minister has knowledge or suspects that a person is or is about to become indebted or liable to make any payment to a corporation liable to make a payment under this Act, he may, by registered letter or by a letter served personally, require him to pay the moneys otherwise payable

to that corporation in whole or in part to the Treasurer of Ontario on account of the liability under this Act. R.S.O. 1970, c. 91, s. 95 (1).

(2) The receipt of the Treasurer of Ontario for moneys paid ^{Idem} as required under this section is a good and sufficient discharge of the original liability to the extent of the payment. R.S.O. 1970, c. 91, s. 95 (2).

(3) Every person who has discharged any liability to a ^{Liability of debtor} corporation liable to make a payment under this Act without complying with a requirement under this section is liable to pay to Her Majesty in right of Ontario an amount equal to the liability discharged or the amount that he was required under this section to pay to the Treasurer of Ontario, whichever is the lesser. R.S.O. 1970, c. 91, s. 95 (3).

(4) Where a person who is or is about to become indebted ^{Service of garnishee} or liable to make a payment to a corporation liable to make a payment under this Act carries on business under a name or style other than his own name, the registered or other letter under subsection 1 may be addressed to the name or style under which he carries on business and, in the case of personal service, shall be deemed to have been validly served if it has been left with an adult person employed at the place of business of the addressee. R.S.O. 1970, c. 91, s. 95 (4).

(5) Where the persons who are or are about to become ^{Idem} indebted or liable to make a payment to a corporation liable to make a payment under this Act carry on business in partnership, the registered or other letter under subsection 1 may be addressed to the partnership name and, in the case of personal service, shall be deemed to have been validly served if it has been served on one of the partners or left with an adult person employed at the place of business of the partnership. R.S.O. 1970, c. 91, s. 95 (5).

169.—(1) Upon default of payment by a corporation of any ^{Recovery of tax, interest and penalties} tax, interest or penalty or any of them imposed upon a corporation by this Act,

- (a) the Minister may bring an action for the recovery thereof in any court in which a debt or money demand of a similar amount may be collected, and every such action shall be brought and executed in and by the name of the Minister or his name of office and may be continued by his successor in office as if no change had occurred, and shall be tried without a jury;

- (b) the Minister may issue a warrant, directed to the sheriff of any county or district in which any property of the corporation is located or situate, for the amount of the tax, interest and penalty or any of them owing by the corporation, together with interest thereon from the date of the issue of the warrant and the costs, expenses and poundage of the sheriff, and such warrant has the same force and effect as a writ of execution issued out of the Supreme Court. R.S.O. 1970, c. 91, s. 96 (1).

Compliance
of Minister
to be proved
by affidavit

- (2) For the purpose of any proceeding taken under this Act, the facts necessary to establish compliance on the part of the Minister with this Part as well as the failure of any person, partnership, syndicate, trust or corporation to comply with the requirements of this Part shall, unless evidence to the contrary satisfactory to the court is adduced, be sufficiently proven in any court of law by affidavit of the Minister or of any officer of the Ministry of Revenue. R.S.O. 1970, c. 91, s. 96 (2), *amended*.

Remedies
for recovery
of tax and
penalty

170. The use of any of the remedies provided by sections 168 and 169 does not bar or affect any of the other remedies therein provided, and the remedies provided by this Act for the recovery or enforcement of the payment of any tax, interest and penalty or any of them imposed by this Act are in addition to any other remedies existing by law, and no action or other proceeding taken in any way prejudices, limits or affects any lien, charge or priority existing under this Act or otherwise. R.S.O. 1970, c. 91, s. 97.

Notice to be
given
Minister of
sale of
company's
capital assets

171.—(1) Where a corporation has failed to pay taxes, interest and penalties or any of them imposed by this Act for a period of more than three years from the date of mailing of the notice of assessment provided by subsection 2 of section 150, no person shall sell any capital assets of the corporation unless he has given written notice by registered letter to the Minister not less than ten days before the date of the sale. R.S.O. 1970, c. 91, s. 98 (1).

Penalty

(2) Every person who contravenes the provisions of subsection 1 is liable to a penalty of not less than an amount equal to the amount of such taxes, interest and penalties in default and such penalty is recoverable by action in any court in which a debt or money demand of a similar amount may be collected. R.S.O. 1970, c. 91, s. 98 (2).

172. If any doubt or dispute arises as to the liability of a corporation to pay a tax or any portion of a tax demanded under the authority of this Act, or if owing to special circumstances it is deemed inequitable to demand payment of the whole amount imposed by this Act, the Minister may accept such amount as he deems proper. R.S.O. 1970, c. 91, s. 99. Compromising disputes as to liability for taxes

173. Every person who, and every corporation that, contravenes or fails to comply with any of the provisions of this Act or the regulations for which no other fine is provided is guilty of an offence and on summary conviction is liable to a fine of not less than \$50 and not more than \$500. R.S.O. 1970, c. 91, s. 100. General offence

174. The fines imposed for offences under this Act are payable to the Treasurer of Ontario. R.S.O. 1970, c. 91, s. 101, *amended*. Fines payable to Treasurer

175.—(1) The Lieutenant Governor in Council may make regulations, Regulations

- (a) authorizing or requiring the Deputy Minister of Revenue or any officer of the Ministry of Revenue to exercise any power or perform any duty conferred or imposed upon the Minister by this Act;
- (b) providing for the issuance of certificates as to the amount of taxes, interest and penalties or any of them owing by any corporation under this Act and prescribing the fee payable therefor;
- (c) prescribing anything that by this Act is to be prescribed or is to be determined or regulated by the regulations;
- (d) prescribing amendments to the provisions of Part II that relate to the computation of income and taxable income and to the provisions of Parts VII and VIII, such amendments to remain effective only if enacted by the Legislature at the first regular session after such amendments have been prescribed;
- (e) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act;
- (f) prescribing rates of interest for the purposes of Part V. R.S.O. 1970, c. 91, s. 102 (1).

(2) A regulation is, if it so provides, effective with reference to a period before it was filed. R.S.O. 1970, c. 91, s. 102 (2). Idem

PART VII

TRANSITIONAL PROVISIONS

Application
rules

176.—(1) For the purposes of this Act, the *Income Tax Application Rules, 1971* (Canada) shall, where applicable, be deemed to apply *mutatis mutandis* to fiscal years ended in 1972 and subsequent fiscal years.

Idem

(2) In this Act where reference is made to *The Corporations Tax Application Rules, 1972*, such reference shall mean the provisions made applicable by subsection 1.

Effect of
R.S.O. 1970,
c. 91

(3) In this Act where reference is made to *The Corporations Tax Act* such reference shall mean the provisions of *The Corporations Tax Act*, R.S.O. 1970, c. 91, as amended.

PART VIII

MISCELLANEOUS

Application
of R.S.O. 1970,
c. 91 as
amended and
this Act

177.—(1) *The Corporations Tax Act*, being chapter 91 of the Revised Statutes of Ontario, 1970, applies to corporations in respect of all fiscal years ending before or during the year 1971 and this Act applies thereafter, provided that the provisions of this Act relating to the collection of taxes apply to the collection of taxes under *The Corporations Tax Act* and that the priority of tax under subsection 1 of section 94 of *The Corporations Tax Act* does not apply to property prescribed for the purposes of subsection 1 of section 167 of this Act.

R.S.O. 1970,
c. 91 as
amended,
repealed

(2) Subject to subsection 1, *The Corporations Tax Act*, *The Corporations Tax Amendment Act, 1971*, *The Corporations Tax Amendment Act, 1971 (No. 2)* and *The Corporations Tax Amendment Act, 1971 (No. 3)* are repealed.

Commence-
ment

178. This Act comes into force on the day it receives Royal Assent.

Short title

179. This Act may be cited as *The Corporations Tax Act, 1972*.

The Corporations Tax Act, 1972

1st Reading

June 29th, 1972

2nd Reading

December 12th, 1972

3rd Reading

December 14th, 1972

THE HON. A. GROSSMAN
Minister of Revenue



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